

ORDINANCE NO. 00-08-29A

AN ORDINANCE OF THE VILLAGE OF BEE CAVE, TEXAS, REPEALING ORDINANCE 94-06-14 ATTACHED AS EXHIBIT "A" TO CHAPTER 12 OF THE VILLAGE'S CODE OF ORDINANCES AND REPEALING ARTICLES 3.300, 3.400, 4.300, 9.200 AND 12.100 OF THE VILLAGES' CODE OF ORDINANCES AND ADDING A NEW ARTICLE 12.100 TO THE CODE OF ORDINANCES ESTABLISHING AND PROVIDING ZONING REGULATIONS; CREATING USE DISTRICTS IN ACCORDANCE WITH THE COMPREHENSIVE PLAN APPROVED BY THE GOVERNING BODY; REGULATING WITHIN SUCH DISTRICTS THE HEIGHT OF BUILDINGS AND STRUCTURES, THE SIZE OF YARDS, COURTS AND OPEN SPACES, AND THE HEIGHT, BULK, EXTERIOR ELEVATIONS AND USE OF BUILDINGS AND LAND FOR NONRESIDENTIAL, RESIDENTIAL AND OTHER PURPOSES; PROVIDING FOR CONDITIONAL USE PERMITS; SPECIFYING MINIMUM REQUIREMENTS FOR OFF-STREET PARKING OF MOTOR VEHICLES AND OFF-STREET LOADING AREAS; SPECIFYING MINIMUM REQUIREMENTS FOR LANDSCAPING AND TREE PRESERVATION; PROVIDING MINIMUM REQUIRED FLOOR AREAS FOR DWELLING UNITS AND THE TYPE OF EXTERIOR CONSTRUCTION WITHIN CERTAIN ZONING DISTRICTS; REGULATING THE DENSITY OF DWELLINGS AND OTHER STRUCTURES; ADOPTING PERFORMANCE STANDARDS FOR NONRESIDENTIAL USES; REGULATING SEXUALLY ORIENTED BUSINESSES; ESTABLISHING THE BASIS FOR CREATING A BUILDING SITE; PROVIDING FOR CONCEPT AND SITE PLAN APPROVAL; PROVIDING FENCE AND WALL REGULATIONS; PROVIDING SPECIAL ACCESS STANDARDS; ADOPTING A ZONING DISTRICT MAP AND MAKING IT A PART OF THIS ORDINANCE, TOGETHER WITH ALL SYMBOLS, MARKINGS AND TABLES APPEARING ON SAID MAP AND WITHIN THE ORDINANCE; CREATING A BOARD OF ADJUSTMENT AND DEFINING ITS POWERS AND DUTIES; CREATING A PLANNING AND ZONING COMMISSION AND DEFINING ITS POWERS AND DUTIES; PROVIDING FOR NON-CONFORMING USES AND A METHOD OF DISCONTINUANCE THEREOF; DEFINING CERTAIN TERMS AS USED WITHIN THIS ORDINANCE; PROVIDING FOR A CERTIFICATE OF OCCUPANCY AND COMPLIANCE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH AND EVERY OFFENSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INJUNCTIVE RELIEF; AND PRESERVING RIGHTS IN PENDING LITIGATION REGARDING VIOLATIONS UNDER THE EXISTING ORDINANCE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF BEE CAVE, TEXAS THAT:

SECTION 1

REPEAL OF CODE PROVISIONS

Ordinance 94-06-14, the Village's Zoning Ordinance, attached as Exhibit "A" to Chapter 12 of the Code of Ordinances of the Village of Bee Cave, and Article 3.300, entitled Landscaping Requirements, Article 3.400, entitled Outdoor Lighting, Article 4.300 entitled Sexually Oriented Businesses, Article 9.200, entitled Site Development Regulations, and Article 12.100 entitled Planning and Zoning Commission, of the Code of Ordinances of the Village of Bee Cave, Texas are hereby repealed.

SECTION 2

PLANNING AND ZONING COMMISSION AND ZONING REGULATIONS

Chapter 12 of the Code of Ordinances of the Village of Bee Cave, Texas is hereby amended by adding a new Article 12.100 which article shall read as follows:

ARTICLE 12.100 PLANNING AND ZONING COMMISSION AND ZONING REGULATIONS

Sec. 12.101 Title and Purpose

This article shall be known and may be cited as the Village of Bee Cave's "Zoning Ordinance."

As authorized by Chapter 211 of the Texas Local Government Code, the zoning regulations and districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the public health, safety, morals and general welfare, and protecting and preserving places and areas of historical, cultural and architectural importance and significance within the Village. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the overcrowding of land and thus avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, wastewater treatment, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, for the character of each zoning district and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and scenic attributes and encouraging the most appropriate use of land throughout the Village.

Sec. 12.102 Zoning District Map

The Village is hereby divided into zones, or districts, and the boundaries of zoning districts set out herein are delineated upon the Zoning District Map of the Village, which may also be cited as the "Zoning Map," said map being adopted as a part of this article as fully as if the same were set forth herein in detail.

- (a) One original of the Zoning District Map shall be filed in the office of the Village Secretary and labeled as "Zoning Map of the Village of Bee Cave, Texas -- Ordinance No. 00-08-29B." This copy

shall be the official Zoning District Map and shall bear the signature of the Mayor, attested by the Village Secretary, and shall bear the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 12.102 of the Code of Ordinances of the Village of Bee Cave, Texas, adopted on the 29th day of August, 2000". This copy shall not be changed in any manner. In case of any question, this copy, together with amending ordinances, shall be controlling.

- (b) A copy of the original Zoning District Map shall be placed in the office of the Village Administrator. The map copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments. Reproductions for informational purposes may only be made of the official Zoning District Map or this copy.

Any amendments made to the zoning district boundaries shall be made on the map copy promptly after the amendment has been approved by the Governing Body, together with a descriptive entry on the map as follows: "On the ____th day of _____, 20__, by official action of the Governing Body of Bee Cave, Texas, the following change(s) was made on the Village's official Zoning District Map: _____ (enter a brief description of the nature of the change), Ordinance No. _____, effective date _____, 20__." The descriptive entry shall be signed by the Mayor and attested by the Village Secretary.

Sec. 12.103 Zoning District Boundaries

The zoning district boundary lines shown on the Zoning District Map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the Zoning District Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerline.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following Village limits shall be construed as following Village limits.
- (d) Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.
- (e) Boundaries indicated as following the centerline of creeks, streams or drainageways shall be construed to follow such centerline, and in the event of change in the centerline shall be construed to move with such centerline.
- (f) Boundaries indicated as parallel to or extensions of features indicated with Subsections (a) through (e) above shall be so construed. Distances not specifically indicated on the Zoning District Map shall be determined by the scale of the Map.

- (g) Whenever any street, alley or other public way is vacated by official action of the Governing Body or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley or other public way shall be automatically extended to the centerline of such vacated street, alley or public way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.
- (h) The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street unless, as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.
- (i) Where physical features on the ground are at variance with information shown on the Zoning District Map, or if there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of Subsections (a) through (h) above, or if the zoning of property is invalidated by a judgment of a court of competent jurisdiction, the property shall be considered classified as "A" (Agriculture District) in the same manner as provided for newly annexed territory.
- (j) Zoning changes which are still valid and which were made between the effective date of the previous Zoning Ordinance (Ordinance No. 94-06-14, as amended), adopted on July 12, 1994, and the effective date of this article are indicated on the Zoning District Map. For exact legal descriptions, refer to adopting ordinances for each particular zoning change.

Sec. 12.104 Compliance Required and Application of Regulations

- (a) All land, buildings, structures or appurtenances thereon located within the Village of Bee Cave, Texas which are occupied, used, constructed, erected, removed, placed, demolished, or converted after the effective date of this article shall be occupied, used, erected, altered, removed, placed, demolished or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located, as hereinafter provided, or such shall be subject to penalties provided in Sec. 12.145 of this article. All of the standards and regulations prescribed herein shall be considered as the minimum requirement unless explicitly stated otherwise.
- (b) No uses shall be allowed which are prohibited by State or Federal law or which operate in excess of State or Federal environmental, pollution or performance standards as determined by the U.S. Environmental Protection Agency (EPA), Texas Air Control Board (TACB), Texas State Department of Health (TSDH), The Texas Natural Resource Conservation Commission (TNRCC), Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or any other applicable State or Federal agency, as the case may be.
- (c) No lot upon which a building has been erected shall later be so reduced in area that the setbacks, yards or open spaces shall be smaller than those required by this article, nor shall a part of a yard or other open space required by this article for any building or lot be included as a part of a yard or other open space similarly required for another building or lot.

- (d) No building shall hereafter be erected or altered:
 - (1) To have more narrow or smaller front, side or rear yards than those required by this article;
 - (2) To exceed the maximum height allowed by this article;
 - (3) To occupy a greater percentage of lot area than allowed by the Nonpoint Source Pollution Control Ordinance; or
 - (4) To accommodate or house a greater number of families than is specified within this article for the zoning district in which such building is located.
- (e) No preliminary or final plat shall be submitted for approval until the area contained within the plat has been zoned for the proposed use of the property.
- (f) All existing uses that may be nonconforming after the effective date of this article shall comply with Sec. 12.106 of this article.

Sec. 12.105 Zoning Upon Annexation

As soon as practical following annexation, but in no event more than one hundred and twenty (120) days thereafter, the Governing Body shall, on its own motion or by property owners of the annexed area, initiate proceedings to establish zoning on the newly annexed territory. Thereupon the Village Administrator shall commence public notification and other standard procedures for zoning amendments as set forth in Sec. 12.109 of this article. Said proceedings to establish zoning may be undertaken concurrently with annexation procedures. However zoning approval and formal adoption of the ordinance establishing zoning must occur after annexation approval and adoption has occurred and as a separate and distinct action by the Governing Body.

- (a) The initial zoning of a land parcel after annexation, whether by initiation of the landowner or by initiation of the Village, must meet the requirements for notification and public hearings as set forth in Sec. 12.109 of this article and all other applicable State laws.
- (b) The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of the petition for annexation, but no such annexation application may be made conditioned upon the approval of any particular zoning classification.

Division 1 - Zoning Procedures and Administration

Sec. 12.106 Nonconforming Uses and Structures

(a) Intent of Provisions:

- (1) Within the districts established by this article or amendments thereto, there may exist lots, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before this article was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this article to permit such nonconforming uses to continue, as long as the conditions within this Section and other applicable sections of the article are met.
- (2) It is further the intent of this article that nonconforming uses shall not be enlarged upon, expanded or extended, and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.
- (3) Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

(b) Nonconforming Status:

- (1) Any use, platted lot or structure which does not conform with the regulations of this zoning ordinance on the effective date hereof or any amendment hereto, except as expressly provided in subsection (3) below, shall be deemed a non-conforming use, lot or structure provided that:

 - (A) Such use, platted lot or structure was in existence under and in compliance with the provisions of the immediately prior zoning ordinance; or
 - (B) Such use, platted lot or structure was a lawful, non-conforming use, lot or structure under the immediately prior zoning ordinance; or
 - (C) Such use, platted lot or structure was in existence at the time of annexation to the Village, was a legal use of the land at such time, and has been in regular and continuous use since such time.
- (2) Any other use, platted lot, or structure which does not conform with the regulations of the zoning district in which it is located on the effective date of this article or any amendment thereto, and except as provided in subsection (3) below, shall be deemed to be in violation of this article, and the Village shall be entitled to enforce fully the terms of this article with respect to such use, platted lot, or structure.

- (3) The following types of platted lots shall be deemed in conformance with the provisions of this article, notwithstanding the fact that such lot does not meet the standards of this article in the district in which it is located:

- (A) Any vacant lot that conformed to the Village's zoning district regulations at the time that it was platted; or
- (B) Any lot occupied by a single-family dwelling authorized under the zoning district regulations in which the lot is located.

- (4) A lot of record that is nonconforming may be occupied by a single-family dwelling.

(c) Continuing Lawful Use of Land and Structures:

- (1) A nonconforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created.
- (2) A nonconforming structure occupied by a nonconforming use may be re-occupied by a conforming use, following abandonment of the nonconforming use.

(d) Abandonment of Nonconforming Uses:

- (1) If a nonconforming use is abandoned, any future use of the premises shall be in conformity with the provisions of this article, as amended, prior to the time the use was abandoned.
- (2) A nonconforming use shall be deemed abandoned in the following circumstances:
 - (A) The use ceases to operate for a continuous period of six (6) months;
 - (B) Where the use occupies a structure, the structure remains vacant for a continuous period of six (6) months; or
 - (C) In the case of a temporary use, the use is moved from the premises.

(e) Changing Nonconforming Uses:

- (1) A nonconforming use shall not be changed to another nonconforming use.
- (2) A nonconforming use may be changed to a conforming use; provided that, once such change is made, the use shall not be changed back to a nonconforming use.
- (3) A conforming use located in a non-conforming structure may be changed to another conforming use.

(f) Expansion of Nonconforming Uses and Structures:

- (1) A nonconforming use may be extended throughout the structure in which it is located, provided that:
 - (A) No alteration shall be made to the structure occupied by the nonconforming use, except those required by law to preserve the integrity of the structure; and
 - (B) The number of dwelling units occupying the structure shall not exceed the number of dwelling units existing at the time the use became nonconforming.
- (2) A non-conforming use occupying a structure shall not be extended to occupy land outside the structure.
- (3) A nonconforming use shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the time the use became nonconforming, except to provide additional off-street parking or loading areas required by this article.

(g) Restoration of Nonconforming Structure:

- (1) If more than sixty percent (60%) of the total appraised value of a nonconforming structure, as determined from the records of the Travis Central Appraisal District, has been destroyed, it may be rebuilt only in conformity with the standards of this article.
- (2) If less than sixty percent (60%) of the total appraised value of a nonconforming structure is destroyed, it may be reconstructed to its original dimensions.
- (3) If a nonconforming structure that is totally or partially destroyed was occupied by a nonconforming use, the nonconforming use may be re-established subject to the limitations on expansion set forth in Sec. 12.106(f).

(h) Right to Proceed Preserved:

Nothing contained in this Sec. 12.106 is intended to alter any rights that may have accrued to proceed under prior regulations, pursuant to Texas Local Government Code, Section 43.002, or Sections 245.001 to 245.006.

Sec. 12.107 Planning and Zoning Commission

(a) General:

The Planning and Zoning Commission (also referred to as the "Commission") shall function according to the following criteria which establishes membership and operating procedures. The

powers and duties of the Planning and Zoning Commission are further defined in Sec. 12.109 of this article and in the Code of Ordinances of the Village of Bee Cave.

(b) Created; Membership; Officers; Rules & Bylaws:

- (1) There is created, in accordance with Chapter 211 of the Texas Local Government Code, the "Planning and Zoning Commission," hereafter sometimes referred to as the "Commission," which shall consist of seven (7) members who are residents of the Village of Bee Cave or its extra-territorial jurisdiction (ETJ).
- (2) Members shall be nominated for appointment by the Mayor or Aldermen of the Village of Bee Cave, and each person so nominated must be approved by a simple majority vote of the Governing Body before becoming a member of the Commission.
- (3) All members appointed to the Commission shall serve as members of the Commission until removed from the Commission by a majority vote of the full Governing Body.
- (4) Any vacancy(s) on the Commission shall be filled by appointment by a simple majority vote of the Governing Body.
- (5) Members of the Commission may be removed from office at any time by a majority vote of the full Governing Body either upon motion by a member of the Governing Body or upon recommendation of the Commission. Failure to attend three (3) consecutive scheduled meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control such as sickness of the member or someone within the member's immediate family.
- (6) The members of the Commission shall regularly attend meetings and public hearings of the Commission, shall serve without compensation, and shall not hold any other office within, or serve as an employee of, the Village while serving on the Commission. The Commission shall meet a minimum of once per month at a time established by the Governing Body.
- (7) The Governing Body shall appoint a Chairperson and a Vice-Chairperson from among the Commission membership, and each officer shall hold office for one (1) year or until replaced by a simple majority vote of the full Governing Body. The Village Administrator's designee shall serve as Secretary to the Commission, and shall keep minutes of all meetings held by the Commission as well as the full record of all recommendations made by the Commission to the Governing Body.
- (8) The Commission shall have the power to make rules, regulations and bylaws for its own governance, which shall conform with those set forth by the Governing Body, and such rules, regulations and bylaws shall be subject to approval by the Governing Body. Such rules and bylaws shall include, among other items, provisions for:
 - (A) Regular and special meetings, open to the public; and
 - (B) A record of its proceedings, to be open for inspection by the public; and

- (C) Reporting to the Governing Body and the public, from time to time and annually.

(c) **Parliamentary Procedure; Quorum; Voting:**

- (1) The Commission will follow the parliamentary procedure adopted by the Governing Body, and procedures shall not be in conflict with the laws applicable to the Commission or the following:
 - (A) **Quorum** - A quorum shall consist of a majority of the membership of the Commission, and any issue to be voted upon shall be resolved by a majority of those members present.
 - (B) **Voting** - All Commission members shall be entitled to one vote each upon any question, a quorum being present. The Chairperson of the Commission shall be entitled to vote in accordance with the parliamentary procedures adopted by the Governing Body.
 - (C) **Conflict of Interest** - If any member has a conflict of interest regarding any item on the Commission's agenda, that member shall remove himself or herself from the room and shall refrain from voting only on the item for which a conflict exists.

(d) **Meetings; Public Record:**

- (1) The Commission shall meet in the municipal building or in some other specified location as may be designated by the presiding Chairperson, and at such intervals as may be necessary to orderly and properly transact the business of the Commission but not less than once each month.
- (2) Meetings shall be open to the public, and minutes shall be kept and shall be treated as public record.

(e) **Establishing Extraterritorial Jurisdiction:**

Statutes of the State of Texas authorizing and empowering cities to regulate the platting and recording of subdivisions or additions within the Village's corporate limits and establishing extraterritorial jurisdiction are hereby recognized, and the Commission, acting through its duly authorized officials, shall have all the rights, powers, privileges and authority authorized and granted by and through said statutes pertaining to regulation of subdivisions in the Village limits and extraterritorial jurisdiction.

(f) **Powers and Duties:**

- (1) The Commission shall have all the rights, powers, privileges and authority authorized and granted by and through the Statutes of the State of Texas authorizing and granting cities the

power of zoning and subdivision regulation as found in Chapter 211 and 212 of the Texas Local Government Code, as amended from time to time.

- (2) The Commission shall be an advisory body and adjunct to the Governing Body, and shall make recommendations regarding amendments to the Comprehensive Plan, changes of zoning, zoning ordinance amendments, and zoning to be given to newly annexed areas, and shall make recommendations regarding the approval of plats of subdivisions as may be submitted to it for review and other planning related matters. The Commission shall conduct an annual review of the Village's Comprehensive Plan and shall be prepared to make recommendations to the Governing Body as deemed necessary to keep the Village's Comprehensive Plan current with changing conditions and trends and with the planning needs of the Village. The Commission shall also serve in an advisory capacity on any planning related item(s) in the Village.

(g) Procedure on Zoning Hearings:

The procedure and process for zoning changes or amendments shall be in accordance with Sec. 12.109 of this article.

(h) Joint Meetings with the Governing Body:

Whenever the Governing Body and the Commission are required by the laws of the State of Texas to conduct public hearings in matters pertaining to planning, zoning or subdividing property, and at other times when it is in the best interest of the Village to do so, the Governing Body and the Commission are hereby authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings.

Sec. 12.108 Zoning Board of Adjustments

(a) Creation:

There is hereby created a Zoning Board of Adjustments for the purpose, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of this article that are consistent with the general purpose and intent of this article. The Zoning Board of Adjustments shall be composed of the members of the Governing Body of the Village of Bee Cave. The Governing Body shall act as the Zoning Board of Adjustments as authorized by Chapter 211.008(g) of the Texas Local Government Code.

(b) Members; Terms of Office:

- (1) The Zoning Board of Adjustments shall consist of members of the Governing Body, and shall operate in accordance with Sections 211.008 through 211.011 of the Texas Local

Government Code, as amended.

- (2) The Zoning Board of Adjustments shall elect a Chairperson and a Vice-Chairperson from among its membership, and each officer shall hold office until replaced by a simple majority vote of the full board. The Village Administrator's designee shall serve as Secretary to the Zoning Board of Adjustments, and shall keep minutes of all meetings held by the board.
- (3) The Zoning Board of Adjustments shall have the power to make the rules, regulations and bylaws for its own government.

(c) **Meetings:**

- (1) Meetings of the Zoning Board of Adjustments shall be held at the call of the Chairperson and at such other times as the board may determine. All meetings of the board shall be open to the public. All cases to be heard by the Zoning Board of Adjustments shall always be heard by at least seventy-five percent (75%) of the members.
- (2) When meeting as the Zoning Board of Adjustments, the board cannot function as the Governing Body. Zoning Board of Adjustments hearings must be separate from Governing Body hearings.

(d) **Authority of Zoning Board of Adjustments:**

The Zoning Board of Adjustments shall have the authority, granted in Sections 211.008 through 211.011 of the Texas Local Government Code and those established herein, to exercise powers and to perform duties including the following:

- (1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this article;
- (2) Authorize, in specific cases, a variance from the terms of this article if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the article would result in unnecessary hardship, and so that the spirit of this article is observed and substantial justice is done;
- (3) In exercising its authority under subsection (1) above, the Zoning Board of Adjustments may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the board has the same authority as the administrative official;
- (4) The concurring vote of at least seventy-five percent (75%) of the full Zoning Board of Adjustments is necessary to:
 - (A) Reverse an order, requirement, decision or determination of an administrative official;

- (B) Decide in favor of an applicant on a matter on which the board is required to review under this article;
- (C) Authorize a variance from the terms of this article; or
- (D) Hear and decide special exceptions to this article.

(e) **Limitations on Authority of Zoning Board of Adjustments:**

- (1) The Zoning Board of Adjustments may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought, except as provided in Sec. 12.108(f).
- (2) The Zoning Board of Adjustments shall have no power to grant or modify Conditional Use Permits authorized under Sec. 12.129 of these regulations.
- (3) The Zoning Board of Adjustments shall have no power to grant a zoning amendment. In the event that a written request for a zoning amendment is pending before the Commission or the Governing Body, the Zoning Board of Adjustments shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.
- (4) The Zoning Board of Adjustments shall not grant a variance for any parcel of property or portion thereof upon which a site plan, preliminary plat or final plat, where required, is pending on the agenda of the Commission and, where applicable, by the Governing Body. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the Zoning Board of Adjustments.

(f) **Variances:**

- (1) The Zoning Board of Adjustments may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the board shall prescribe only conditions that it deems necessary for, or desirable to, the public interest. In making the findings herein below required, the board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work within the proposed use, and the probable effect such variance will have upon traffic conditions and upon the public health, safety, convenience and welfare of the community.
- (2) **Conditions Required for Variance** - No variance shall be granted without first having given public notice and having held a public hearing on the written variance request in accordance with this article and unless the Zoning Board of Adjustments finds:
 - (A) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of the land; and

- (B) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- (C) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and
- (D) That the granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this article.

Such findings of the Zoning Board of Adjustments, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Zoning Board of Adjustments meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and that substantial justice may be done.

- (3) **Findings of Undue Hardship** - In order to grant a variance, the Zoning Board of Adjustments must make written findings that an undue hardship exists, using the following criteria:
 - (A) That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property; and
 - (B) That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district; and
 - (C) That the relief sought will not injure the permitted use of adjacent conforming property; and
 - (D) That the granting of a variance will be in harmony with the spirit and purpose of these regulations.
- (4) A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely upon economic gain or loss, nor shall it permit any person the privilege of developing a parcel of land not permitted by this article to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.
- (5) The applicant bears the burden of proof in establishing the facts that may justify a variance.
- (6) **Special Exceptions for Nonconforming Uses and Structures** - Upon written request of the property owner, the Zoning Board of Adjustments may grant special exceptions to the provisions of Sec. 12.106, limited to the following, and in accordance with the following standards:
 - (A) Expansion of a nonconforming use within an existing structure a maximum of ten percent (10%); provided that, in the case of a nonconforming residential use, such expansion does not increase the number of dwelling units to more than the number

existing when the use first became nonconforming; or

- (B) Expansion of the gross floor area of a nonconforming structure a maximum of ten percent (10%), provided that such expansion does not decrease any existing setback.
- (C) Change from one nonconforming use to another, re-construction of a nonconforming structure that has been totally destroyed, or resumption of a nonconforming use previously abandoned, only upon finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land.
- (D) In granting special exceptions under this Sec. 12.108, the Zoning Board of Adjustments may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare, including but not limited to conditions specifying the period during which the nonconforming use may continue to operate or exist before being conformed to the standards of this article.

(g) Appeals to the Zoning Board of Adjustments:

- (1) The appellant must file with the Zoning Board of Adjustments and the official from whom the appeal is taken a written notice of appeal specifying the grounds for the appeal. The appeal must be filed within sixty (60) days after the decision has been rendered. Upon receiving the notice, the official from whom the appeal is taken shall immediately transmit to the Zoning Board of Adjustments all papers constituting the record of action that is appealed. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the Zoning Board of Adjustments facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the Zoning Board of Adjustments or a court of record on application, after notice to the official, if due cause is shown. The appellant may appear at the appeal hearing in person or by agent or attorney. The Zoning Board of Adjustments shall decide the appeal within four (4) weeks after the notice of appeal was received, after which time the appeal shall be deemed automatically approved if no formal action is taken. The Zoning Board of Adjustments may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.
- (2) A member of the Governing Body may not bring an appeal to the Zoning Board of Adjustments.

(h) **Procedures:**

- (1) **Application and Fee** - An application for a variance by the Zoning Board of Adjustments shall be made in writing using forms prescribed by the Village, and shall be accompanied by an application fee, a site plan and such additional information as may be requested in writing in order to properly review the application. Such information may include, but is not limited to, plat plans, site building plans, photographs, topographic contour maps, and other similar documents. All drawings must be to scale.
- (2) **Review and Report by the Village** - The Village Administrator, shall visit the site where the proposed variance will apply and the surrounding area, and shall report his or her findings to the Zoning Board of Adjustments.
- (3) **Notice and Public Hearing** - The Zoning Board of Adjustments shall hold a public hearing for consideration of the written variance request no later than forty-five (45) days after the date the application for action, or an appeal, is filed. Notice of the public hearing shall be provided to all property owners within two hundred feet (200') of the affected property at least ten (10) days prior to the public hearing, and also published in the official local newspaper at least ten (10) days prior to the public hearing.
- (4) **Action by the Zoning Board of Adjustments** - The Zoning Board of Adjustments shall not grant a variance unless it finds, based upon evidence, that each of the conditions in Sec. 12.108(f) has been established. The Zoning Board of Adjustments may impose such conditions, limitations and safeguards as it deems appropriate upon the granting of any variance. Violation of any such condition, limitation or safeguard shall constitute a violation of this article.

(i) **Finality of Decisions; Judicial Review:**

All decisions of the Zoning Board of Adjustments are final and binding. However, any person aggrieved by a decision of the Zoning Board of Adjustments may present a verified petition to a court of record which states that the decision of the Zoning Board of Adjustments is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition must be presented within ten (10) days after the date the decision is filed in the Village Secretary's office. Subject to the provisions of Chapter 211.011 of the Texas Local Government Code, only a court of record may reverse, affirm or modify a decision of the Zoning Board of Adjustments.

Sec. 12.109 Changes and Amendments to Zoning Ordinances and Districts, and Administrative Procedures

(a) Declaration of Policy and Review Criteria:

- (1) The Village declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

 - (A) To correct any error in the regulations or map;
 - (B) To recognize changed or changing conditions or circumstances in a particular locality;
 - (C) To recognize changes in technology, the style of living, or manner of conducting business;
 - (D) To change the property to uses in accordance with the approved Comprehensive Plan; or
 - (E) To make changes in order to implement policies within the Comprehensive Plan.
- (2) In making a determination regarding a written requested zoning change, the Commission and the Governing Body shall consider the following factors:

 - (A) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the Village as a whole;
 - (B) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;
 - (C) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the Village, and any special circumstances which may make a substantial part of such vacant land unavailable for development;
 - (D) The recent rate at which land is being developed in the same zoning classification as the written request, particularly in the vicinity of the proposed change;
 - (E) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved; and

- (F) Any other factors which will substantially affect the public health, safety, morals, or general welfare.

(b) Authority to Amend Ordinance:

The Governing Body may from time to time, after receiving a final report thereon by the Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning District Map. Any Ordinance regulations or zoning district boundary amendment may be requested by the Governing Body, the Commission, or, in writing by the owner of real property, or the authorized representative of an owner of real property. Upon such request, the item(s) shall be posted on the next Commission agenda after proper application and notification has been made.

Consideration for a change in any district boundary line or special zoning regulation may be initiated only by the property owner or his or her authorized agent or by the Commission or the Governing Body on its own motion when it finds that public benefit will be derived from consideration of such matter. Proof of authorization by the property owner must be submitted with the zoning application. In the event the ownership stated on an application and that shown in Village records are different, the applicant shall submit proof of ownership or verification that he or she is acting as an authorized agent for the property owner.

No person who owes delinquent taxes, fees, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the Village, and which are directly attributable to a piece of property requested for zoning shall be allowed to submit a zoning request until the taxes, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the Village has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that the taxes have been paid.

(c) Application:

- (1) Each application for zoning or for an amendment or change to the existing provisions of this article shall be made in writing on an application form available at the Village in the office of the Village Secretary, filed with the Village, and shall be accompanied by payment of the appropriate fee. The application shall also be accompanied by additional information materials, such as plans, maps, exhibits, legal description of property, architectural elevations, information about proposed uses, as deemed necessary by the Village Administrator, in order to ensure that the written request is understood. A concept plan shall be submitted as prescribed in Sec. 12.111 of this article, along with any zoning request involving the formation of a Planned Development District or Planned Residential Overlay District.
- (2) All zoning change requests shall be accompanied by a notarized statement verifying land ownership and, if applicable, authorization of a land owner's agent to file the change request.

(3) Official Submission Date and Completeness of Application

- (A) For the purpose of these regulations, the “official submission date” shall be the date upon which a complete application for a zoning change request, that contains all elements and information required by this article, is first submitted to the Village Administrator. No application shall be deemed officially submitted until the Village Administrator determines that the application is complete and a fee receipt is issued by the Village. Failure by the Village Administrator to make a determination of incompleteness within ten (10) calendar days following the date on which the application was first received by the Village, shall result in the application being deemed complete, and the “official submission date” shall become the 10th calendar day following initial receipt of the application by the Village.
- (B) Zoning change request applications which do not include all required information and materials will be considered incomplete, shall not be accepted for official submission by the Village, and shall not be scheduled on a Commission agenda until the proper information is provided to Village staff.

(d) Public Hearing and Notice:

- (1) For zoning or rezoning requests involving real property, the Commission shall hold at least one public hearing on each zoning application. For proposed changes to zoning district boundaries including rezoning requests, notice of the Commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the Village before the 15th day before the date of the hearing date of the public hearing. Written notice of the public hearing to occur before the Planning and Zoning Commission shall also be sent to all owners of property, as indicated by the most recently approved Village tax roll, that is located within the area of application and within two hundred feet (200') of any property affected thereby, said written notice to be sent before the 10th day before the hearing date. Such notice may be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, with first class postage paid, in the United States mail.
- (2) For requests involving proposed changes to the text of this article, notice of the Commission hearing shall be accomplished by publishing the purpose, time and place of the public hearing in the official newspaper of the Village before the 15th day before the date of the public hearing. Changes in the text of this article which do not change zoning district boundaries, or which do not involve specific real property, do not require written notification to individual property owners.
- (3) The Village may, at its option, establish additional rules and procedures for public notification of proposed zoning changes or development proposals such as site plans, plats and developer agreements, which may include, but not be limited to, the posting of a sign(s) on any property that is proposed for a zoning change or development by the applicant or its agent(s). Adherence to such rules and procedures, if so established by the Village, shall be the responsibility of the applicant and shall be required as part of a zoning change or

development application.

- (4) Parliamentary procedures shall be established by the Governing Body.

(e) Failure to Appear:

Failure of the applicant or representative to appear before the Commission or the Governing Body for more than one hearing without an approved delay by the Village Administrator, shall constitute sufficient grounds for the Commission or the Governing Body to table or deny the application unless the Village is notified in writing by the applicant that the applicant will be unable to appear, at least seventy-two (72) hours prior to the hearing.

(f) Planning and Zoning Commission Consideration and Recommendation:

- (1) The Commission shall function in accordance with Sec. 12.107 of this article and with applicable provisions in the Village's Code of Ordinances.
- (2) The Commission shall hold a public hearing on a zoning or rezoning request, or a proposed text amendment to this article. After all public input has been received and the public hearing closed, the Commission shall make its recommendations on the proposed zoning request and concept plan, if submitted, stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the Village's Comprehensive Plan. The Commission may, on its own motion or at the applicant's request, defer its decision recommendations until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the Commission elects to table the request, such tabling shall specifically state the time period of the tabling by citing the meeting date whereon the request will reappear on the Commission's agenda.
- (3) When the Commission is ready to act upon the zoning request, it may recommend approval of the request as it was submitted by the applicant, approval of the request subject to certain conditions as in the case of a Planned Development District or a Conditional Use Permit, or disapproval of the request. If the Commission's recommendation is to approve the request either as submitted or with additional conditions, then the request will be automatically forwarded to the Governing Body for a second public hearing thereon.
- (4) If the Commission recommends denial of the zoning change request, it shall provide reasons to the applicant for the denial, if requested by the applicant. The Commission Chairperson shall inform the applicant of the right to request reasons for the denial.

(g) Governing Body Consideration:

- (1) **Applications Forwarded from the Commission to the Governing Body** - Every application or proposal which is recommended for approval or approval with conditions, by

the Commission shall be automatically forwarded, along with the Commission's recommendation to the Governing Body for setting and holding of public hearing thereon following appropriate public hearing notification as prescribed in Sec. 12.109(d). The Governing Body may then approve the request, approve it with conditions, or disapprove it by a majority vote of the Board members present and voting.

An application which is recommended by the Commission for denial shall not be forwarded to the Governing Body unless the applicant files a written appeal with the Village Secretary within ten (10) days after the Commission's decision. Said appeal will, in that instance, be forwarded to the Governing Body along with the Commission's reasons for denial of the request. The appeal shall be scheduled for the next possible Governing Body agenda, following appropriate public notification as prescribed in Sec. 12.109(d). Ultimate approval of the request will require a three-fourths (3/4) majority vote of all members of the Governing Body. No zoning change shall become effective until after the adoption of an ordinance for same.

- (2) **Governing Body Action on Zoning, Rezoning and Text Amendment Requests** - After a public hearing is held before the Governing Body regarding the zoning application, the Governing Body may approve the request in whole or in part, deny the request in whole or in part, table the application to a future meeting, specifically citing the Governing Body meeting to which it was tabled, or it may refer the application back to the Commission for further study.

- (A) If the Governing Body approves the request, then Sec. 12.109(g)(4) will apply.
- (B) If the Governing Body denies the request, then no other zoning application may be filed for all or part of the subject tract of land, or for that portion of this article, in the case of a text amendment request submitted by a property owner or citizen, for a waiting period of one (1) year following the denial. In the instance that the request was initiated by the Governing Body and involved a proposed amendment to the text of this article, then there is no waiting period before the request can be reconsidered.

The Governing Body may, at its option, waive the one-year waiting period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.

- (3) **Protests** - For zoning requests involving real property, a favorable vote of three fourths (3/4) of all members of the Governing Body shall be required to approve any change in zoning when written objections are received from twenty percent (20%) or more of the land area covered by the proposed change, or the land area within two hundred feet (200') of the subject property, in compliance with the provisions of Section 211.006 of the Texas Local Government Code. If a protest against such proposed amendment, supplement or change has been filed with the Village Secretary, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the land included in such a proposed change or those immediately adjacent to the area thereof extending two hundred feet (200')

therefrom, such amendments shall not become effective except by a three-fourths (3/4) vote of all members of the Governing Body.

- (4) **Final Approval and Ordinance Adoption** - Upon approval of the zoning request by the Governing Body, the applicant shall submit all related material with revisions, if necessary, to the Village Administrator for the preparation of the amending ordinance. The zoning request shall be deemed approved at the time the Governing Body makes a decision to approve the request as submitted or with certain conditions. However, the amending ordinance will not be prepared or formally adopted until a correct description and all required exhibits have been submitted to the Village Administrator.

Sec. 12.110 Certificates of Occupancy and Compliance

- (a) **Certificates of Occupancy shall be required for any of the following:**

- (1) Occupancy and use of a building hereafter erected or structurally altered, including minor renovation or rehabilitation of residential structures, as described in Sec. 12.110(d) below.
- (2) Change in use of an existing building to a use of a different classification
- (3) Change in the use of land to a use of a different classification

No such use, or change of use, shall take place until a Certificate of Occupancy therefore shall have been issued by the Building Official.

- (b) **Procedure for New or Altered Buildings** - Written application for a Certificate of Occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the Building Permit for such building. Said Certificate shall be issued after the Building Official orders the building or structure inspected and finds no violations of the provisions of this article or other regulations which are enforced by the Building Official. Said Certificate shall be issued by the Building Official after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this article.
- (c) **Procedure for Vacant Land or a Change in Building Use** - Written application for a Certificate of Occupancy for the use of vacant land, a change in the use of land or a change in the use of a building, or for a change from a nonconforming use to a conforming use, shall be made to the Building Official. If the proposed use is a conforming use, as herein provided, written application shall be made to said Building Official. If the proposed use is found to be in conformity with the provisions of this article, the Certificate of Occupancy shall be issued after the application for same has been made and all required inspections are completed and approved by the Building Official.

- (d) **Residential Make-Ready Certificate of Occupancy** - Written application for a Residential Make-Ready Certificate shall be made to the Village for any minor renovation, rehabilitation or remodeling for an existing residential structure or site prior to occupancy of the structure or site. The purpose of the Residential Make-Ready Certificate is to allow general maintenance and rehabilitation activities, such as painting, carpeting, flooring, that are commonly associated with preparing a residential structure for occupancy by a new owner or occupant. This Certificate is not intended to be used for major renovation or repair activities, such as foundation restructuring, room additions, attic finish-out, kitchen or bathroom makeovers, that would require substantial electrical, plumbing or structural work, nor for renovation or remodeling of a non-residential structure. Such major repairs shall be required to conform to Sec. 12.110(b) above.

A written application for a Residential Make-Ready Certificate shall be submitted to the Village Administrator, for his or her review, and shall be approved by the Village Administrator upon a finding that the repair activities proposed will be beneficial to the subject structure or site and the surrounding area, and that they will not compromise the public health, safety and welfare. A Residential Make-Ready Certificate shall be valid for a period of thirty (30) days, and one thirty-day extension may be granted by the Village Administrator if additional time will be needed to complete the repair work. Under no circumstances shall occupation of the premises be allowed during the repair work. Upon completion of the minor renovation, rehabilitation or remodeling work, and prior to occupancy of the structure or site, the property owner shall make written application for a Certificate of Occupancy inspection to be performed by the Fire Department. The Certificate of Occupancy shall be issued after all required inspections are completed and approved by the Building Official.

- (e) **Contents** - Every Certificate of Occupancy shall contain the following: 1) building permit number; 2) the address of the building; 3) the name and address of the owner; 4) a description of that portion of the building for which the Certificate is issued; 5) a statement that the described portion of the building has been inspected for compliance with the requirements of the Village's Building Codes for the particular group and division of occupancy; 6) the name of the Building Official; 7) use(s) allowed; 8) maximum number of occupants; and 9) issue date of Certificate of Occupancy.
- (f) **Posting** - The Certificate of Occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Building Official.

Sec. 12.111 Concept Plan and Site Plan Review Processes

- (a) **Purpose** - This Section establishes a site plan review process for all proposed nonresidential and residential developments. The purpose of the review is to ensure efficient and safe land development, harmonious use of land, compliance with the Comprehensive Plan appropriate design standards, safe and efficient vehicular and pedestrian circulation, parking and loading, and adequate water supply, drainage and storm water management, sanitary facilities, coverage, and other utilities and services.

- (b) **Applicability** - Site plan review and approval shall be required for all nonresidential and residential projects and any Planned Development District, Planned Development Overlay District, or Conditional Use Permit. Public hearings may also be required, as set forth in Sec. 12.127, Sec. 12.128, and Sec. 12.129).

No building permit shall be issued for any of the above developments until a site plan and all other required engineering or construction plans are first approved by the Village. No certificate of occupancy shall be issued until all construction and development conforms to the site plan and engineering or construction plans, as approved by the Village. The site plan review process shall include up to 4 steps:

- (1) Pre-application conference;
 - (2) Concept Plan Review;
 - (3) Site Plan Review; and,
 - (4) Construction of Project after Village approval of required site plan and other associated plans, including preliminary plat and engineering plans.
- (c) **Exemptions and Exceptions** - Site plan review shall not be required for single-family detached residential developments, unless the proposed subdivision will include a private amenity or facility comprised of one or more buildings, such as a private recreation or swimming facility or clubhouse or a golf course, or unless the proposed subdivision will have private streets. In these instances, site plan submission and approval, in accordance with this Section, will be required for the private amenity or facility, the golf course clubhouse and hospitality area, and the gated entrances.
- (d) **Site Plan Submission Requirements** - The concept plan, which is voluntary except for Planned Developments, Planned Development Overlays, and Conditional Use Permits, and site plan submission shall be comprised of the items set forth below. All required items and information must be received by the Village Administrator in order for a concept plan or site plan submission and zoning change request to be considered complete. Incomplete submissions will not be reviewed until all deficient items and information have been received. The requirements are:
- (1) An application form, in the format provided by the Village, with notarized signatures of the owner or his/her designated representative;
 - (2) Filing fee;
 - (3) Verification that all taxes and assessments on the subject property have been paid.
 - (4) Copies of the concept plan or site plan, on 24" x 36" sheet, and drawn to a known engineering scale that is large enough to be clearly legible, and other required information, the quantity of which shall be determined by the Village Administrator.

- (5) General layout for the required public improvements, including water, wastewater, grading and storm drainage, streets, water quality, alleys, fire lanes and hydrants, the quantity of which shall be determined by the Village Administrator.
 - (6) Reduced copies (11" x 17" or smaller) of the site plan as required by the Village Administrator.
 - (7) Landscaping and irrigation plans, the quantity of which shall be determined by the Village Administrator.
 - (8) Building facade (elevation) plans drawn to scale, the quantity of which shall be determined by the Village Administrator.
 - (9) Any additional information and materials, such as plans, maps, exhibits, legal description of property, information about proposed uses, as deemed necessary by the Village Administrator, in order to ensure that the written request is understood.
 - (10) If the application is for a single-family subdivision, a preliminary plat may qualify as a site plan.
- (e) **Payment of all Indebtedness Attributable to Subject Property** - No person who owes delinquent taxes, fees, delinquent paving assessments, impact fees, or any other delinquent debts or obligations to the Village, and which are directly attributable to a piece of property shall be allowed to submit an application for concept plan or site plan until the taxes, fees, assessments, debts, or obligations directly attributable to said property and owed by the owner or previous owner shall have been first fully paid, or until an arrangement satisfactory to the Village has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, debts and obligations have been paid.
- (f) **Official Submission Date and Completeness of Application** -
- (1) For the purpose of these regulations, the "official submission date" shall be the date upon which a complete application for approval of a concept plan or site plan, that contains all elements and information required by this article, is first submitted to the Village Administrator. No application shall be deemed officially submitted until the Village Administrator determines that the application is complete and a fee receipt is issued by the Village. Failure by the Village Administrator to make a determination of incompleteness within ten (10) calendar days following the date on which the application was first received by the Village, shall result in the application being deemed complete, and the "official submission date" shall become the 10th calendar day following initial receipt of the application by the Village.
 - (2) Concept plan and site plan applications which do not include all required information and materials will be considered incomplete, shall not be accepted for official submission by the Village, and shall not be scheduled on a Commission agenda until the proper information is provided to Village staff.

- (g) **Supplemental Requirements** - The Village's staff may require other information and data for specific concept plans and site plans. This data may include but is not limited to geologic information, water yields, flood data and hydrological studies, environmental information, traffic impact analysis, road capacities, market information, economic data for the proposed development, hours of operation, elevations and perspective drawings, lighting, and similar information. Approval of a concept plan or site plan may establish conditions for construction based upon such information.
- (h) **Principles and Standards for Site Plan Review and Evaluation** - The following criteria have been set forth as a guide for evaluating the adequacy of proposed development within the Village, and to ensure that all developments are, to the best extent possible, constructed according to the Village's codes and ordinances.

The Village Administrator shall review the concept plan or site plan for compliance with all applicable Village ordinances and with the Comprehensive Plan; for harmony with surrounding uses and with long-range plans for the future development of the Village; for the promotion of the health, safety, order, efficiency, and economy of the Village; and for the maintenance of property values and the general welfare.

Concept plan or site plan review and evaluation by the Village Administrator shall be performed with respect to the following:

- (1) The plan's compliance with all provisions of this article and other ordinances of the Village.
- (2) The impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.
- (3) The relationship of the development to adjacent uses in terms of harmonious design, facade treatment, setbacks, building materials, maintenance of property values, and any possible negative impacts.
- (4) The provision of a safe and efficient vehicular and pedestrian circulation system.
- (5) The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.
- (6) The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for fire fighting and emergency equipment to buildings.
- (7) The coordination of streets so as to arrange a convenient system consistent with the Future Thoroughfare Plan of the Village.
- (8) The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement, or activities from adjacent properties when necessary, and to complement and integrate the design and location of buildings into the overall site design.

- (9) Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent properties.
- (10) The location, size, accessibility, and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
- (11) Protection and conservation of soils from erosion by wind or water or from excavation or grading.
- (12) Protection and conservation of water courses and areas subject to flooding.
- (13) The adequacy of water, drainage, sewerage facilities, solid waste disposal, and other utilities necessary for essential services to residents and occupants.
- (14) Consistency with the Comprehensive Plan.

(i) **Approval Process:**

- (1) **Pre-application Conference** - The applicant(s) should avail themselves of the advice and assistance of the Village officials, and should consult early and informally with the Village Administrator, the Building Official, or other designated administrative officers before preparing a concept plan, which is a voluntary plan, except for Planned Development, Planned Development Overlays, and Conditional Use Permits, or a site plan in order to save time, money and to avoid potential unnecessary delays.

Prior to formal application for approval of any concept plan or site plan, the applicant(s) shall request and attend a pre-application conference with the Village Administrator, the Village Engineer, the Building Official, and any other pertinent Village official(s) in order to become familiar with the Village's development regulations and the development process. At the pre-application conference, the developer may be represented by its land planner, engineer or surveyor.

- (2) **Village Staff Review** - Upon official submission of a complete application for concept plan or site plan approval, the Village shall commence technical review of the development proposal by forwarding a copy of the application to development review team members, such as the Village Administrator, Village Engineer and Village Planner. Development review team members shall review the application and shall ascertain its compliance with these and other applicable Village regulations. Following Village staff review of the plan and supporting documents, and following discussions with the applicant on any revisions deemed advisable and the kind and extent of improvements to be installed, the applicant shall resubmit additional copies of the corrected plan to the Village Administrator no later than seven (7) calendar days prior to the Commission meeting. Failure to resubmit corrected copies of the plan back to the Village in time shall be cause for the Village Administrator to forward the plan application to the Commission as it was originally submitted rather than the corrected version. Corrected copies of the plan resubmitted to the Village less than seven days prior to the meeting date shall not be accepted or forwarded to the Commission.

If, upon re-submission of the corrected plan to the Village, the Village Administrator determines that the application is still incomplete or not correct, the plan application shall be subject to denial.

- (3) **Action By the Commission and the Governing Body** - All concept plan or site plan applications shall be reviewed by the Commission, and if in conformance with the provisions of this article and all other applicable regulations and codes of the Village, they shall then be considered for approval by the Governing Body.

The Village Administrator shall schedule consideration of the concept plan or site plan on the regular agenda of the Commission within forty-five (45) days after the submission is received, or, in the case of an incomplete submission, after the submission is deemed complete. The Commission shall review the concept plan or site plan and shall recommend approval, approval subject to certain conditions, or disapproval of the concept plan or site plan. If the Commission recommends approval, with or without conditions, of the plan, the it will be forwarded to the Governing Body for consideration. If the Commission recommends disapproval of a plan application, the Commission shall state such disapproval and the reasons therefor. The applicant or property owner may appeal such decision to Governing Body by filing a Notice of Appeal in the office of the Village Administrator no later than ten (10) calendar days after the date upon which the Commission denied the application. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The Governing Body shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date upon which the Notice of Appeal was filed. The Governing Body may change the decision of the Commission by a majority vote. The Governing Body may also, where appropriate, remand the concept plan or site plan application back to the Commission for reconsideration by a majority vote if it believes that there is a compelling reason to do so, such as the introduction of significant new facts or testimony. The Governing Body shall determine final approval or disapproval of all concept plan or site plan applications.

- (4) **Revisions to the Concept Plan or Site Plan** - Revisions to an approved concept plan or plan shall be processed in accordance with subsections (1), (2), and (3) above.

- (j) **Lapse of Concept Plan or Site Plan Approval** - The approval of a concept plan or site plan shall be effective for a period of 183 calendar days beyond the date that the plan was approved by the Governing Body except as provided herein. By 12:01 a.m. on the 184th day following approval of the plan, the applicant must have completed a Village-required "progress benchmark" as set forth below. If this is not accomplished, then the approved concept plan or site plan shall be deemed to have expired and shall become null and void. The series of "progress benchmarks" for a project, pursuant to the provisions of this paragraph, are as follows:

| <u>Approved Plan</u> | → | <u>Next "Progress Benchmark"</u> |
|---|---|---|
| Concept Plan (voluntary except with PDs, PROs, & CUPs) | → | Final site plan (per Zoning Ordinance), and preliminary plat (per Subdivision Ordinance), and continued active engineering review of the engineering plans, which were submitted along with the preliminary plat and final site plan. |

Site Plan



Application for a building permit for at least one of the buildings on the approved site plan.

(k) **Extension and Reinstatement Procedure**

Prior to the lapse of approval for a concept plan or site plan, the applicant may petition the Village, in writing, to extend the plan approval. Such petition shall be considered at a public meeting before the Commission and the Governing Body, and an extension may be granted by Governing Body at such meeting. If no petition for extension of concept plan or site plan approval is submitted, then the plan shall be deemed to have expired and shall become null and void.

In determining whether to grant a request for extension, the Governing Body shall take into account the reasons for the lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which development regulations would apply to the concept plan or site plan at that point in time. The Commission and Governing Body shall either extend the concept plan or site plan or deny the request, in which instance the originally approved plan shall be deemed null and void. The property owner must thereafter submit a new concept plan or site plan application for approval, and shall conform to the zoning and other regulations then in effect.

(l) **Concept Plan Requirements**

- (1) **Applicability** - Submission and approval of a concept plan, which is a voluntary plan except for Planned Development, Planned Development Overlay and Conditional Use zoning requests can be the first step in the approval process for a development project, whether residential or nonresidential, if the applicant chooses to do so. Village review and approval of a concept plan has many benefits for both the Village and the applicant. The applicant benefits in that he or she gains preliminary review and scrutiny, as well as input and suggestions, on the overall conceptual layout of the proposed development from the Village's development review team. Approval of a concept plan may also offer the applicant some level of confidence that subsequent plan submissions will be favorably received and approved with few major changes to the project's design and layout provided that the project complies with Village regulations. For example, once the site plan, preliminary plat and corresponding engineering plans are submitted for a nonresidential project, unforeseen changes in site layout can prove to be expensive in terms of design and engineering costs and time lost during major plan revisions. The Village benefits in that it is allowed to become familiar with and involved in the project early in the development process, which is particularly important for large-scale developments and subdivisions. This allows the Village to plan for and closely coordinate the provision of public facilities and services, thereby potentially avoiding future problems such as undersized utility lines, inadequate roadway capacities, unanticipated shortfalls in public services, and fiscal inefficiencies resulting from lack of planning and coordination. Submission and approval of a concept plan is mandatory for a zoning request for a Planned Development, Planned Development Overlay and Conditional Use Permit. Submission and approval of a concept plan is encouraged, but not required, in the following circumstances:

- (A) In conjunction with a zoning or rezoning request for a property that is intended for development;
 - (B) Prior to submission of an application for a site plan and preliminary plat for a property that is intended for development, particularly large land parcels; or
 - (C) In conjunction with any project where a road is to be established or realigned.
- (2) **Purpose** - The purpose of a concept plan is to allow opportunity for the Commission and Governing Body to preview various development related aspects of the project, including proposed major thoroughfare and collector street patterns; land use patterns and trends; environmental issues and constraints; building orientation and massing; conformance to the Comprehensive Plan, this article, Future Land Use Plan, Thoroughfare Plan and other applicable plans and guidelines; and the property's relationship to adjoining subdivisions or properties. Review of a concept plan would also assist the Village in evaluating the possible impacts of the proposed development in terms of provision of essential public facilities and services, respecting and preserving important natural features and the environment, provision of open space and recreational opportunities, and protecting the general health, safety and welfare of the community.
- (3) **Extent of Area That Should Be Included In A Concept Plan** - When the overall development project is to be developed in phases, the concept plan area shall include the entire zoned property from which the phases are being developed and an approximate development schedule. Where significant natural or man-made features, such as thoroughfares or creeks, make inclusion of the entire property in the concept plan unnecessary to adequately review the items to be shown on a concept plan, the plan may include a smaller study area. Boundaries such as major thoroughfares, whether existing or proposed, creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area.
- (4) **Procedures and Submission Requirements For Concept Plan Approval** - Submission of an application for concept plan approval shall be preceded by a pre-application conference with the Village. The concept plan shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals two hundred feet (1" = 200') and on sheets twenty-four inches by thirty-six inches (24" x 36"), and it shall show the following:
- (A) A title block within the lower right hand corner of the concept plan with the proposed name of the project or subdivision, the name and address of the owner and the land planner, engineer architect or surveyor responsible for the design or survey, the scale of the drawing, both written and graphic scale, the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of Travis County, Texas;
 - (B) A vicinity or location map that shows the location of the proposed development within the Village and in relationship to existing roadways;

- (C) The boundary survey limits of the tract and scale distances with north clearly indicated;
 - (D) The names of adjacent additions or subdivisions, or the name of the owners of record and recording information for adjacent parcels of unplatted land, including parcels on the other sides of roads and creeks. The concept plan shall include a depiction of all contiguous holdings of the property owners, the existing and proposed uses of the subject property, a general arrangement of future land uses, including the approximate number of lots and any residential uses anticipated, and a generalized circulation plan for the subject property;
 - (E) The existing zoning and existing and proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements with recording information; existing buildings; railroad rights-of-way; topography, including contours at two-foot intervals with existing drainage channels or creeks, including the 100-year flood plain, if applicable; any other important natural features, such as rock outcroppings, caves and wildlife habitats; all substantial natural vegetation; and adjacent political subdivisions, corporate limits, and school district boundaries;
 - (F) Proposed strategies for tree preservation showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction;
 - (G) The layout and width, including right-of-way lines and curb lines, of existing and proposed thoroughfares, collector streets and intersections, and a general configuration of proposed streets, lots and blocks, including proposed median openings and left turn lanes on future divided roadways. Existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings;
 - (H) A general arrangement of land uses and buildings, including but not limited to proposed nonresidential and residential densities; building heights, square footages, massing, orientation, loading and service areas, recycling containers, compactors and dumpster enclosures, pedestrian walkways, and parking areas; any proposed sites for parks, schools, public facilities, public or private open space; flood plains and drainageways; and other pertinent development related features; and
 - (I) The phasing of development.
- (5) **Effect of Review** - The concept plan shall be used only as an aid to show the anticipated layout of the proposed development, and to assess the adequacy of public facilities or services that will be needed to serve the proposed development. Any proposed use or development depicted on the concept plan shall not be deemed formal authorization or approval by the Village until a final site plan is approved for the development. The concept plan approval is to be thought of as a general acknowledgment by the Village that the proposed layout generally conforms to the Village's zoning regulations, and that the proposed development can be adequately served by required public facilities or services.

If the applicant chooses to construct only the initial phase or phases of a multi-phase project designated in the concept plan, a new concept plan may be required for site plan approval of subsequent phases, if the proposed development layout, character, or other conditions affecting the development substantially change from one phase to the next.

The approved concept plan shall be valid for a period of 183 calendar days from the date of concept plan approval by the Governing Body.

(m) **Site Plan Review**

- (1) **Applicability and Purpose** - Submission and Village approval of a site plan is required as stated in Sec. 12.111(b). The purpose of final site plan approval is to ensure that a development project is in compliance with all applicable Village ordinances and guidelines prior to commencement of construction. Approval of the site plan, preliminary plat, landscape plan, building facade plan, and engineering plans are required prior to site construction.
- (2) **Extent of Area That Should Be Included In A Site Plan** - When the overall development project is to be developed in phases, the site plan area shall include only the portion of the overall property that is to be developed or constructed.
- (3) **Procedures and Submission Requirements For Site Plan Approval** - Submission of an application for site plan approval shall be preceded by a pre-application conference with the Village. The site plan shall be prepared by a licensed civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals one hundred feet (1" = 100') and on sheets twenty-four inches by thirty-six inches (24" x 36"), and it shall clearly show in detail how the site will be constructed, including paving, buildings, landscaped areas, utilities. The site plan shall include, but not be limited to the following:
 - (A) A title block within the lower right hand corner of the site plan with the proposed name of the project or subdivision, the name and address of the owner and the land planner, engineer architect or surveyor responsible for the plan, the scale of the drawing, both written and graphic scale, the date the drawing was prepared, total site acreage, and the location of the property according to the abstract and survey records of Travis County, Texas;
 - (B) A vicinity or location map that shows the location of the proposed development within the Village and in relationship to existing roadways;
 - (C) The boundary survey limits of the tract, and each proposed lot, and scale distances with north clearly indicated;
 - (D) The names of adjacent additions or subdivisions, or the name of the owners of record and recording information for adjacent parcels of unplatted land, including parcels on the other sides of roads and creeks;

- (E) The existing zoning and existing and proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements, with recording information; existing buildings; railroad rights-of-way; topography with contours at two-foot intervals with existing drainage channels or creeks, including the 100-year flood plain, if applicable; any other important natural features such as rock outcroppings, caves and wildlife habitats; and all substantial natural vegetation;
- (F) Proposed strategies for tree preservation, showing individual trees or tree masses that will be preserved, and the techniques that will be used to protect them during construction;
- (G) The layout and width, including right-of-way lines and curb lines, of existing and proposed thoroughfares, collector streets and intersections, and specific configuration of proposed streets, lots and blocks, proposed driveways, showing driveway widths and distances between driveways, and proposed median openings and left turn lanes on future divided roadways. Existing and planned driveways on the opposite side of divided roadways must also be shown for coordination and sharing of future median openings;
- (H) Specific locations and footprints of buildings, including but not limited to proposed nonresidential and residential densities; building heights, square footages which for multi-tenant or multi-purpose buildings must show square footage for each intended use, massing, orientation, loading and service areas, including proposed screening, recycling containers, compactors and dumpster enclosures, proposed screening, pedestrian walkways, and parking areas including parking ratio calculations; any proposed sites for parks, schools, public facilities, public or private open space; flood plains and drainageways; all proposed and existing utilities and easements; drainage structures; detention ponds with proposed aesthetic treatments; screening walls; fences; signage; fire lanes and fire hydrants; lighting; visibility easements; and other pertinent development related features; and
- (I) A landscape plan showing turf areas, tree types and sizes, screening walls, ornamental plantings, planting schedule, including species, planted height, spacing, container and caliper size, numbers of each plant material, any existing wooded areas, trees to be planted, and irrigation plans, if required.
- (J) Building facade (elevation) plans showing elevations with any wall-mounted signage to be used, as determined appropriate by the Village Administrator.

Provision of the above items shall conform to the principles and standards of this article and the Comprehensive Plan. To ensure the submission of adequate information, the Village is hereby empowered to maintain and distribute a separate list of specific requirements for site plan review applications. Upon periodic review, the Village Administrator shall have the authority to update such requirements for site plan and development review applications. It is the applicant's responsibility to be familiar with, and to comply with, these

requirements.

- (4) **Effect of Review** - The site plan shall be considered authorization to proceed with construction of the site provided all other required Village approvals are obtained, such as preliminary plat, engineering plans, landscape plan, building facade plans, building permits. The approved site plan shall be valid for a period of 183 calendar days from the date of approval by the Governing Body.

Division 2 - Zoning Districts

Sec. 12.112 Zoning Districts Established

- (a) The Village of Bee Cave, Texas is hereby divided into the following zoning districts. The use, height, area regulations, and other standards, as set out herein apply to each district. The districts established herein shall be known as:

| <u>Abbreviated Designation</u> | <u>Zoning District Name</u> |
|------------------------------------|---|
| Base Districts | |
| A | Agriculture |
| SF-RR | Single-Family Rural Residential - (minimum 43,560 square-foot lots) |
| SF-20 | Single-Family Estate Residential-20 (minimum 20,000 square-foot lots) |
| SF-PH | Single-Family Residential-Patio Home (zero-lot-line homes) |
| SFA | Single-Family Attached Residential (townhomes) |
| MF-1 | Multi-Family Residential-1 |
| O | Office |
| NS | Neighborhood Service |
| R | Retail |
| TC | Town Center |
| C | Commercial |
| MU | Mixed Use |
| P | Public Use |
| DR | Development Reserve |
| Special Districts | |
| PD | Planned Development |
| PRO | Planned Residential Overlay |
| CUP | Conditional Use Permit |

- (b) Certain terms and definitions used within this article can be found in Sec. 12.139.

Sec. 12.113 A — Agriculture District

(a) **General Purpose and Description:**

The A -- Agriculture District is designed to permit the use of land for the ranching, propagation and cultivation of crops and similar uses of vacant land. Single-family uses on large lots are also appropriate for this district. Territory that has been newly annexed into the Village is initially zoned Agriculture until it is assigned another more permanent zoning district. It is anticipated that Agriculture zoned land will eventually be rezoned to another more permanent, urban zoning classification in the future.

(b) **Permitted Uses:**

Those uses listed for the A - Agricultural District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) **Height Regulations:**

Maximum Height:

- (1) Two and one-half (2½) stories, or thirty-five feet (35') for the main building or house.
- (2) Forty-five feet (45') for agricultural structures (barns, silos, or water towers), provided they are no closer than one hundred feet (100') from any residential structure on the premises, and they are set back at least one hundred feet (100') or three (3) times their height (whichever is greater) from any residential structure on adjacent property.
- (3) Twenty-five feet (25') for other accessory buildings, including detached garage or accessory dwelling units.
- (4) Other requirements (see Sec. 12.135).

(d) **Area Regulations:**

(1) **Size of Lots:**

- (A) **Minimum Lot Area** - Two (2) acres (87,120 square feet)
- (B) **Minimum Lot Width** - Two hundred feet (200')
- (C) **Minimum Lot Depth** - Two hundred fifty feet (250')

(2) **Size of Yards:**

- (A) **Minimum Front Yard** - Sixty feet (60')
- (B) **Minimum Side Yard** - Ten percent (10%) of the lot width, but need not exceed thirty feet (30'); twenty-five feet (25') from a street right-of-way for a corner lot
- (C) **Minimum Rear Yard** - Twenty-five feet (25') for the main building and any accessory building(s); ten feet (10') from a main building to an accessory building

- (3) **Maximum Lot Coverage:** This is not addressed in this article.
 - (4) **Parking Regulations**
 - (A) **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line on the same lot as the main structure
 - (B) **Other** - See Section 12.131, Off-Street Parking and Loading Regulations
 - (5) **Minimum Floor Area per Dwelling Unit** - Eight hundred (800) square feet
- (e) **Special Requirements:**
- (1) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.
 - (2) Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of one (1) or more acres.
 - (3) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood or garden materials.
 - (4) Single-family homes with side entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty-five feet (25') from the door face of the garage or carport to the side property line for maneuvering.
 - (5) Swimming pools shall be constructed and enclosed in accordance with the Village Building Code.
 - (6) Site plan approval (see Sec. 12.111) shall be required for any non-residential use, such as a school, church, child care center or private recreation facility in the A District. Any nonresidential land use which may be permitted in this district shall conform to the "R" - Retail District standards.
 - (7) **Other Regulations** - As established by Sec. 12.131 through Sec. 12.138.

Sec. 12.114 SF-RR -- Single-Family Rural Residential District

(a) **General Purpose and Description:**

The SF-RR -- Single-Family Rural Residential District is intended to provide for development of primarily very low-density detached, single-family residences on lots of not less one acre.

(b) **Permitted Uses:**

Those uses listed for the SF-RR District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) **Height Regulations:**

Maximum Height:

- (1) Two and one-half (2½) stories, or thirty-five feet (35') for the main building or house.
- (2) Twenty-five feet (25') for other accessory buildings, including detached garage or accessory dwelling units.
- (3) Other requirements (see Section 12.135).

(d) **Area Regulations:**

(1) **Size of Lots:**

- (A) **Minimum Lot Area** - One (1) acre (43,560 square feet)
- (B) **Minimum Lot Width** - One hundred fifty feet (150')
- (C) **Minimum Lot Depth** - Two hundred feet (200')

(2) **Size of Yards:**

- (A) **Minimum Front Yard** - Fifty feet (50')
- (B) **Minimum Side Yard** - Ten percent (10%) of the lot width, but need not exceed twenty-five feet (25'); twenty-five feet (25') from a street right-of-way for a corner lot
- (C) **Minimum Rear Yard** - Twenty-five feet (25') for the main building and any accessory building(s); ten feet (10') from a main building to an accessory building

- (3) **Maximum Lot Coverage:** This is not addressed in this article.

(4) **Parking Regulations:**

- (A) **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line and on the same lot as the main structure
- (B) **Other** - (See Sec. 12.131, Off-Street Parking and Loading Requirements)

- (5) **Minimum Floor Area per Dwelling Unit** - One thousand (1,000) square feet

(e) **Special Requirements:**

- (1) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.

- (2) Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of one (1) or more acres.
- (3) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood or gardening materials.
- (4) Single-family homes with side entry garages where lot frontage is only to one street (not a corner lot) shall have a minimum of twenty five feet (25') from the door face of the garage or carport to the side property line for maneuvering.
- (5) Swimming pools shall be constructed and enclosed in accordance with the Village Building Code.
- (6) Site plan approval (see Sec. 12.111) shall be required for any non-residential use, including a school, church, child care center or private recreation facility in the SF-RR District. Any nonresidential land use which may be permitted in this district shall conform to the "R" - Retail District standards.
- (7) All single-family structures shall have a minimum roof pitch of 6:12.
- (8) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.115 SF-20 -- Single-Family Residential-20 District

(a) General Purpose and Description:

The SF-20 -- Single-Family Residential-20 District is intended to provide for development of primarily very low-density detached, single-family residences on lots of not less one-half acre.

(b) Permitted Uses:

Those uses listed for the SF-20 District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) Height Regulations:

Maximum Height:

- (1) Two and one-half (2½) stories, or thirty-five feet (35') for the main building or house.
- (2) Twenty-five feet (25') for other accessory buildings, including detached garage or accessory dwelling units.

- (3) Other requirements (see Section 12.135).

(d) **Area Regulations:**

(1) **Size of Lots:**

- (A) **Minimum Lot Area** - One-half acre (20,000 square feet)
- (B) **Minimum Lot Width** - One hundred feet (100')
- (C) **Minimum Lot Depth** - One hundred fifty feet (150')

(2) **Size of Yards:**

- (A) **Minimum Front Yard** - Forty feet (40')
- (B) **Minimum Side Yard** - Ten percent (10%) of the lot width, but need not exceed twenty-five feet (25'); twenty-five feet (25') from a street right-of-way for a corner lot
- (C) **Minimum Rear Yard** - Twenty-five feet (25') for the main building and any accessory building(s); ten feet (10') from a main building to an accessory building

- (3) **Maximum Lot Coverage:** This is not addressed in this article.

(4) **Parking Regulations:**

- (A) **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line and on the same lot as the main structure
- (B) **Other** - (See Section 12.131, Off-Street Parking and Loading Requirements)

- (5) **Minimum Floor Area per Dwelling Unit** - One thousand (1,000) square feet

(e) **Special Requirements:**

- (1) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.
- (2) Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of one (1) or more acres.
- (3) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood and gardening materials.
- (4) Single-family homes with side entry garages where lot frontage is only to one street shall have a minimum of twenty five feet (25') from the door face of the garage or carport to the side property line for maneuvering.
- (5) Swimming pools shall be constructed and enclosed in accordance with the Village Building Code.

- (6) Site plan approval shall be required for any non-residential use, such as a school, church, child care center or private recreation facility, in the SF-20 District. Any nonresidential land use which may be permitted in this district shall conform to the "R" - Retail District standards.
- (7) All single-family structures shall have a minimum roof pitch of 6:12.
- (8) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.116 SF-PH -- Single-Family Residential-Patio Home District (Zero-Lot-Line Homes)

(a) **General Purpose and Description:**

The SF-PH-- Single-Family Residential-Patio Home District is designed to provide for development of primarily detached single-family residences on more compact lots having one side yard reduced to zero feet, also commonly referred to as "zero-lot-line," and having not less than four thousand five hundred (4,500) square feet. Patio home developments shall be arranged in a clustered lot pattern with a common usable open space system that is an integral part of the development.

(b) **Permitted Uses:**

Those uses listed for the SF-PH District in Section 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) **Height Regulations:**

Maximum Height:

- (1) Two and one-half (2½) stories, or thirty-five feet (35') for the main building or house.
- (2) One (1) story for accessory buildings.
- (3) Other (see Section 12.135).

(d) **Area Regulations:**

(1) **Size of Lots:**

- (A) **Minimum Lot Area** - Four thousand five hundred (4,500) square feet
- (B) **Minimum Lot Width** - Forty feet (40')
- (C) **Minimum Lot Depth** - One hundred ten feet (110')

- (2) **Size of Yards:**
 - (A) **Minimum Front Yard** - Twenty-five feet (25')
 - (B) **Minimum Side Yard** - One side yard reduced to zero feet (0'); other side yard a minimum of ten feet (10') required with fifteen feet (15') required on corner lots adjacent to a street
 - (C) **Minimum Rear Yard** - Twenty-five feet (25') for the main building and any accessory building(s); ten feet (10') from a main building to an accessory building
 - (3) **Maximum Lot Coverage:** This is not addressed in this article.
 - (4) **Parking Regulations:**
 - (A) **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line and on the same lot as the main structure
 - (B) **Visitor Parking** - One half (½) parking space per dwelling unit (off-street) which is located within six hundred feet (600') of the dwelling unit
 - (C) **Other** - See Section 12.131, Off-Street Parking and Loading Requirements
 - (5) **Minimum Floor Area per Dwelling Unit** - One thousand (1,000) square feet.
- (e) **Special Requirements:**
- (1) Patio home developments shall be developed as zero-lot-line homes. One side yard shall be reduced to zero feet, while the other side yard shall be a minimum of ten feet 10', or fifteen feet for a corner lot on the street side. A minimum six-foot (6') wide maintenance easement shall be placed on the adjacent lot to enable the property owner to maintain that portion of his or her house which is on the zero-lot-line. Side yards and maintenance easements shall be shown on the subdivision plat. A minimum separation between patio homes of ten feet (10') shall be provided. Roof overhangs will be allowed to project into the maintenance easement a maximum of twenty-four inches (24").
 - (2) **Maintenance Requirements for Common Areas** - A property owners association is required for continued maintenance of common land and facilities.
 - (3) **Usable Open Space Requirements** - Except as provided below, any patio home subdivision shall provide useable open space which equals or exceeds twenty percent (20%) of the gross platted area, excluding rights-of-way for collector and larger sized streets. Useable open space shall not be required for a patio home development if it contains twenty (20) or fewer lots, and if the property contiguous, either abutting or separated only by a residential or collector size street, to the subdivision is either developed for use(s) other than patio homes or is restricted by zoning to not permit patio home development. Properties that are separated by thoroughfares larger than a collector street or by drainage or utility easements in excess of sixty feet (60') in width shall not be considered as contiguous.

- (4) **Specific Criteria for Usable Open Space** - Areas provided as usable open space shall meet the following criteria:
- (A) All residential lots must be located within six hundred feet (600') of a usable open space area as measured along a street. The Commission may recommend, and the Governing Body may allow, this distance to be increased to up to one thousand two hundred feet (1,200') if the shape of the subdivision is irregular or if existing trees or vegetation on the site can be preserved by increasing the distance.
 - (B) Individual usable open space areas shall be at least twenty thousand (20,000) square feet in size. Useable open space must be a minimum of fifty feet (50') wide, and must have no slope greater than ten percent (10%). At the time of site plan and subdivision plat approval, the Commission may recommend, and the Governing Body may allow, full or partial credit for open areas that exceed the 10% maximum slope if it is determined that such areas are environmentally or aesthetically significant and that their existence enhances the development and the surrounding area.
 - (C) Pools, tennis courts, walkways, patios and similar outdoor amenities may be located within areas designated as useable open space. Areas occupied by enclosed buildings, except for gazebos and pavilions, driveways, parking lots, overhead electrical transmission lines, drainage channels and antennas may not be included in calculating useable open space.
 - (D) Within useable open space areas, there shall be at least one (1) tree for every one thousand (1,000) square feet of space. New trees planted to meet this requirement shall be a minimum three-inch (3") caliper.
 - (E) A useable open space area must have street frontage on at least thirty-three percent (33%) of the area's perimeter to ensure that the area is accessible to residents of the subdivision.
 - (F) Useable open space areas must be easily viewed from adjacent streets and homes.
- (5) **Credit for Off-Site Open Space** - At the time of site plan or subdivision plat approval, the Commission may recommend, and the Governing Body may allow, up to one-third (1/3) of the required open space to be credited for off-site dedicated open space that meets the development's needs in terms of adjacency, accessibility, usability, and design integration. The granting of any off-site credit for open space is a discretionary power of the Governing Body. The guidelines below may assist in considering if credit is appropriate:
- (A) **Adjacency** - Is at least fifteen percent (15%) of the patio home development's boundary adjacent to park land?
 - (B) **Accessibility** - Are there defined pedestrian connections between the development and the park land?

- (C) **Usability** - Is the park land immediately adjacent to the development suitable for use and accessible by residents?
- (D) **Design Integration** - Does the design of the development provide a significant visual and pedestrian connection to the park or other open space land?
- (6) **Landscaped Areas** - Additional common open space and landscaped areas that do not qualify as usable open space may be provided, but shall not be counted toward the usable open space requirement (also see Sec. 12.132).
- (7) The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.
- (8) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.
- (9) Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of one (1) or more acres.
- (10) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood and gardening materials.
- (11) Single-family homes with side entry garages where lot frontage is only to one street shall have a minimum of twenty five feet (25') from the door face of the garage or carport to the side property line for maneuvering.
- (12) Swimming pools shall be constructed and enclosed in accordance with the Village Building Code.
- (13) Site plan approval shall be required for any non-residential use, including a school, church, child care center or private recreation facility, in the SF-PH District. Any nonresidential land use which may be permitted in this district shall conform to the "R" - Retail District standards.
- (14) All single-family structures shall have a minimum roof pitch of 6:12.
- (15) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.117 SFA – Single-Family Attached Residential District (Townhouse)

(a) General Purpose and Description:

The SFA -- Single-Family Attached Residential District is intended to promote stable, quality, attached-occupancy residential development on individual lots at slightly increased densities. Individual ownership of each lot is encouraged. This district may be included within certain areas of neighborhoods or, when in accordance with the intent of the Comprehensive Plan, may provide a "buffer" or transition district between lower density residential areas and multi-family or non-residential areas or major thoroughfares.

(b) Permitted Uses:

Those uses listed for the SFA District in Section 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Section 12.129.

(c) Height Regulations:

Maximum Height

- (1) Two and one-half (2½) stories, or thirty-five feet (35') for the main building or house.
- (2) One (1) story for accessory buildings.
- (3) Other (see Sec. 12.135).

(d) Area Regulations:

(1) Size of Lots:

- (A) **Minimum Lot Area** - Three thousand (3,000) square feet
- (B) **Minimum Lot Width** - Thirty feet (30')
- (C) **Minimum Lot Depth** - One hundred feet (100')

(2) Size of Yards:

- (A) **Minimum Front Yard** - Twenty-five feet (25')
- (B) **Minimum Side Yard**
 1. Single-family attached dwellings need not have a side yard, except that a minimum fifteen-foot (15') side yard is required adjacent to a street. The ends of any two adjacent building complexes or rows of buildings shall be at least fifteen feet (15') apart. The required side yards shall be designated upon a plat approved by the Governing Body.

2. A complex of attached single-family dwellings shall have a minimum length of three (3) dwelling units, and shall not exceed two hundred feet (200') in length or the width of six (6) attached units, whichever is less.
- (C) **Minimum Rear Yard** - Twenty-five feet (25') for the main building and any accessory building(s); ten feet (10') from a main building to an accessory building.
- (3) **Maximum Lot Coverage:** This is not addressed in this article.
- (4) **Parking Regulations:**
 - (A) A minimum of two (2) enclosed parking spaces for each dwelling unit, located behind the dwelling unit and accessed only from the rear via an alley or approved fire lane, and located on the same lot as each dwelling unit (see Sec. 12.131, Off-Street Parking and Loading Requirements).
 - (B) Additional parking shall be required for any recreational uses, club house, office, sales offices and visitors.
 - (C) Designated visitor parking spaces shall be provided in off-street, common areas at a ratio of one (1) visitor space per four (4) units.
- (5) **Minimum Floor Area per Dwelling Unit** - One thousand (1,000) square feet.
- (6) **Open Space Requirement** - All single-family attached developments shall provide usable open space at the same ratio and conforming to the same criteria as specified below.
 - (A) Usable Open Space Requirements - Except as provided below, any SFA subdivision shall provide useable open space which equals or exceeds twenty percent (20%) of the gross platted area, excluding rights-of-way for collector and larger sized streets. Useable open space shall not be required for an SFA development if it contains twenty (20) or fewer lots.
 - (B) See Sec. 12.118(g)(1) for other requirements.
- (7) **Maintenance Requirements for Common Areas** - A property owners association is required for continued maintenance of common land and facilities.
- (8) All utilities shall be provided separately to each lot within an SFA District so that each unit is individually metered.
- (9) Each attached dwelling unit within the SFA District shall be rear entry only from an alley or an approved fire lane.
- (10) Single-family detached dwellings, and their respective lots, constructed within this district shall conform to the standards as set forth in Sec. 12.128(e)(2)(c).
- (11) Each SFA lot shall contain a private yard which may be a backyard or sideyard with not less than four hundred (400) square feet of area. Private yards may include a patio cover, gazebo or other similar non-enclosed structure which does not cover more than twenty-five percent (25%) of the area of the private yard, and they may also include a swimming pool, swing

set, play fort, or other leisure amenity.

(e) **Special Requirements:**

- (1) The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.
- (2) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.
- (3) Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of one (1) or more acres.
- (4) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood, gardening materials.
- (5) Single-family homes with side entry garages where lot frontage is only to one street shall have a minimum of twenty five feet (25') from the door face of the garage or carport to the side property line for maneuvering.
- (6) Swimming pools shall be constructed and enclosed in accordance with the Village Building Code.
- (7) Site plan approval shall be required for any non-residential use, including a school, church, child care center or private recreation facility in the SFA District. Any nonresidential land use which may be permitted in this district shall conform to the "R" - Retail District standards.
- (8) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.118 MF-1 – Multi-Family Residential-1 District

(a) **General Purpose And Description:**

The MF-1 -- Multi-Family Residential-1 District is an attached residential district intended to provide the highest residential density of ten (10) dwelling units per acre. The principal permitted land uses will include low- and mid-rise multiple-family dwellings and garden apartments. Recreational, religious, health and educational uses normally located to service residential areas are also permitted in this district. This district should be located adjacent to a major thoroughfare and serve as a buffer between retail or commercial development or heavy automobile traffic and medium or low density residential development.

(b) **Permitted Uses:**

Those uses listed for the MF-1 District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) **Height Regulations:**

Maximum Height:

- (1) Three (3) stories or fifty feet (50') for the main building(s).
- (2) One (1) story for accessory buildings.
- (3) Other (see Sec. 12.135).

(d) **Area Regulations:**

(1) **Size of Lots:**

- (A) **Minimum Lot Area** - Two thousand seven hundred twenty-two (2,722) square feet per dwelling unit, not to exceed ten (10) dwelling units per acre, calculated on gross acreage, with the exception provided in 19.4 E.6. The minimum lot size shall be twenty thousand (20,000) square feet.
- (B) **Minimum Lot Width** - One hundred feet (100')
- (C) **Minimum Lot Depth** - One hundred fifty feet (150')

(2) **Size of Yards:**

- (A) **Minimum Front Yard** - Thirty feet (30'). All areas adjacent to a street shall be deemed front yards. See Sections 12.131 through 12.135 for any additional setback requirements.
- (B) **Minimum Side Yard** - Fifteen feet (15'); sixty feet (60') when building is in excess of one story in height and adjacent to a single-family zoning district
- (C) **Minimum Rear Yard** - Twenty-five feet (25'); eighty feet (80') when the building is in excess of one story and adjacent to a single-family zoning district
- (D) **Building Separation:**
 1. One-story buildings - Fifteen feet (15'), for buildings with or without openings
 2. Two-story buildings (or a two-story building adjacent to a one-story building) - Twenty feet (20'), for buildings with or without openings
 3. Three-story buildings (or a three-story building adjacent to a one- or two-story building) - Twenty-five feet (25'), for buildings with or without openings

(3) **Minimum Floor Area per Dwelling Unit:**

- (A) Efficiency unit - Five hundred fifty (550) square feet per unit.
- (B) One-bedroom unit - Six hundred (600) square feet per unit.
- (C) Two- or more bedroom unit - Eight hundred (800) square feet for the first two

bedrooms, plus an additional two hundred (200) square feet for every bedroom over two.

- (4) **Maximum Lot Coverage:** This is not addressed in this article.
- (5) **Parking Regulations:**
 - (A) 1.75 spaces for each efficiency or 1 bedroom unit
 - (B) 2 spaces for each 2 bedroom unit
 - (C) 2.5 spaces for each 3 bedroom unit
 - (D) 3 spaces for each 4 or more bedroom unit
 - (E) All parking areas adjacent to public streets shall be screened from view. Screening may be in the form of live plant materials, berms or brick or masonry walls.
 - (F) A minimum of two (2) covered parking spaces shall be required for each unit that has two (2) or more bedrooms. One (1) covered space is required for efficiency units.
 - 1. An increase in density of a total of up to 12 units per acre is permitted when at least fifty (50) percent of the parking spaces are constructed to be covered and enclosed.
 - 2. An increase in density of a total of up to 16 units per acre is permitted when one hundred (100) percent of the parking spaces are constructed to be covered and enclosed.
 - (G) See Sec. 12.131, Off-Street Parking and Loading Requirements, for additional requirements.

(e) **Refuse Facilities:**

- (1) Every multi-family dwelling unit shall be located within two hundred and fifty feet (250') of a refuse facility, measured along the designated pedestrian and vehicular travel way. A refuse facility shall be a dumpster or other similar receptacle designed for receiving garbage in bulk for more than one dwelling. Refuse dumpsters shall be no closer than thirty feet (30') to any adjacent single-family property.
- (2) Each refuse facility shall be screened from view on three (3) sides from persons standing at ground level on the site or immediately adjoining property, by a solid screening device constructed of materials approved by the Village Administrator and not less than six (6) feet in height, or by an enclosure within a building. A gate on fourth side is optional. Refuse containers shall be provided and maintained in a manner to satisfy local public health and sanitary regulations. Each refuse facility shall be located so as to provide safe and convenient pickup by refuse collection agencies. (See Illustration 11 for refuse container enclosure diagrams).

(f) **Special Requirements:**

- (1) Single-family units constructed in this district shall conform to SFA District standards.
- (2) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.
- (3) Open storage is prohibited.
- (4) The front door of each dwelling unit shall be no more than one hundred fifty feet (150') from a fire lane, measured by an unobstructed pathway, or route, for fire hoses.
- (5) A paved walkway shall connect the front door of each ground floor unit to a parking area.
- (6) Buildings shall not exceed two hundred feet (200') in length.
- (7) Boats, campers, trailers and other recreational vehicles shall be prohibited unless oversize parking areas are provided as part of the approved site plan. This parking area shall not be used to meet the minimum parking requirements and shall not be visible from a public street.
- (8) All buildings containing residential units shall provide signage which clearly identifies the numbers (addresses) of the units within each building. Signage shall be visible from entrances into the complex or from vehicular drive aisles within the complex such that each individual unit is easy to locate by visitors, delivery persons, or emergency personnel.
- (9) All parking areas shall have appropriate lighting and shall be positioned such that no light adversely impacts adjacent residential areas.
- (10) Swimming pools shall be constructed and enclosed in accordance with the Village Building Code.
- (11) Site plan approval, as required by Sec. 12.111, shall be required for any non-residential use, such as a school, church, child care center or private recreation facility in the MF-1 District. Any nonresidential land use which may be permitted in this district shall conform to the "R" - Retail District standards.
- (12) **Other Regulations:** As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

(g) **Usable Open Space:**

- (1) **Usable Open Space Requirements** - Except as provided below, any MF development shall provide useable open space which equals or exceeds twenty percent (20%) of the gross platted area, excluding rights-of-way for collector and larger sized streets.

- (2) **Specific Criteria for Usable Open Space** - Areas provided as usable open space shall meet the following criteria:
- (A) All MF units must be located within six hundred feet (600') of a usable open space area. The Commission may recommend, and Governing Body may allow, this distance to be increased to up to one thousand two hundred feet (1,200') if the shape of the MF development is irregular or if existing trees or vegetation on the site can be preserved by increasing the distance.
 - (B) Individual usable open space areas shall be at least twenty thousand (20,000) square feet in size. Useable open space must be a minimum of fifty feet (50') wide, and must have no slope greater than ten percent (10%). At the time of site plan approval, the Commission may recommend, and the Governing Body may allow, full or partial credit for open areas that exceed the 10% maximum slope if it is determined that such areas are environmentally or aesthetically significant and that their existence enhances the development or the surrounding area.
 - (C) Pools, tennis courts, walkways, patios and similar outdoor amenities may be located within areas designated as useable open space. Areas occupied by enclosed buildings, except for gazebos and pavilions, driveways, parking lots, overhead electrical transmission lines, drainage channels and antennas, may not be included in calculating useable open space.
 - (D) Within useable open space areas, there shall be at least one (1) tree for every one thousand (1,000) square feet of space. New trees planted to meet this requirement shall be a minimum three-inch (3") caliper.
- (3) **Credit for Off-Site Open Space** - At the time of site plan approval, the Commission may recommend, and the Governing Body may allow, up to one-third ($\frac{1}{3}$) of the required open space to be credited for off-site dedicated open space that meets the development's needs in terms of adjacency, accessibility, usability, and design integration. The granting of any off-site credit for open space is a discretionary power of the Governing Body. The guidelines below may assist in considering if credit is appropriate:
- (A) **Adjacency** - Is at least fifteen percent (15%) of the MF development's boundary adjacent to park land?
 - (B) **Accessibility** - Are there defined pedestrian connections between the development and the park land?
 - (C) **Usability** - Is the park land immediately adjacent to the development suitable for use and accessible by residents?
 - (D) **Design Integration** - Does the design of the development provide a significant visual and pedestrian connection to the park or other open space land?

- (4) **Landscaped Areas** - Additional common open space and landscaped areas that do not qualify as usable open space may be provided, but shall not be counted toward the usable open space requirement.

Sec. 12.119 O – Office District

(a) **General Purpose and Description:**

The O -- Office District is established to create a district for low intensity office and professional uses. The district can be used as a transition district between more intense uses and residential uses. Permitted uses should be compatible with adjacent residential areas by limiting heights to one (1) or two (2) stories, and by utilizing buffering and landscaping requirements. Adaptive reuse of existing structures is encouraged. Buildings in this district should be compatible and in similar scale with residential uses and adjacent property.

(b) **Permitted Uses:**

Those uses listed for the O - Office District in Section 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) **Height Regulations:**

Maximum Height:

- (1) Two (2) stories or thirty-five feet (35') for the main building(s).
- (2) One (1) story for accessory buildings.
- (3) Other (see Section 12.135).

(d) **Area Regulations:**

(1) **Size of Lots:**

- (A) **Minimum Lot Size** - Twelve thousand (12,000) square feet
- (B) **Minimum Lot Width** - Eighty feet (80')
- (C) **Minimum Lot Depth** - One hundred fifty feet (150')

(2) **Size of Yards:**

- (A) **Minimum Front Yard** - Twenty-five feet (25'); all yards adjacent to a street shall be considered a front yard (see Sec. 12.131 through Sec. 12.135 for any additional setback requirements)
- (B) **Minimum Side Yard** - Fifteen feet (15'); Twenty-five feet (25') adjacent to a public street or residential lot

- (C) **Minimum Rear Yard** - Twenty-five feet (25')
- (D) **Adjacent to a Single-Family District** - The side or rear setback, whichever is adjacent to the single-family zoning district, shall observe a sixty-foot (60') setback if the office use is over one (1) story in height.

(3) **Maximum Lot Coverage:** This is not addressed in this article.

(e) **Special District Requirements:**

- (1) **Parking Requirements** - As established by Sec. 12.131, Off-Street Parking and Loading Requirements.
- (2) Open storage is prohibited.
- (3) **Site Plan Review** - Review and approval of a site plan by the Commission and the Governing Body, in accordance with Sec. 12.111, shall be required for any tract or lot within the O District. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the Governing Body.
- (4) Building facade (elevation) plans shall be submitted for Commission review and approval by the Governing Body along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Village Administrator may, as he or she deems appropriate, require submission of additional information and materials, including actual samples of materials to be used, during the Site Plan review process.
- (5) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.
- (6) **Hours of Operation** - All permitted uses within this district, with the exception of restaurants, healthcare facilities, lodging facilities such as motels and hotels, emergency veterinary services, and government or public uses, shall have hours of public operation between 7:00 a.m. and 7:00 p.m. Hours of operation do not apply to tenants or employees using the offices.
- (7) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.120 NS – Neighborhood Service District

(a) General Purpose and Description:

The NS -- Neighborhood Service District is established to provide areas for limited local neighborhood, low intensity retail and service facilities for the retail sales of goods and services. These shopping areas should utilize established landscape and buffering requirements. The NS district should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes but it can also act as a buffer against residential areas.

(b) Permitted Uses:

Those uses listed for the NS District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) Height Regulations:

Maximum Height:

- (1) Two (2) stories or thirty-five feet (35') for the main building(s).
- (2) One (1) story for accessory buildings.
- (3) Other (Sec. 12.135).

(d) Area Regulations:

(1) Size of Lot:

- (A) **Minimum Lot Area** - Twenty thousand (20,000) square feet
- (B) **Minimum Lot Width** - One hundred feet (100')
- (C) **Minimum Lot Depth** - One hundred feet (100')

(2) Size of Yards:

- (A) **Minimum Front Yard** - Twenty-five feet (25'); all yards adjacent to a street shall be considered a front yard. See Sec. 12.131 through Sec. 12.135 for any additional setback requirements.
- (B) **Minimum Side Yard** - Twenty-five feet (25'); Twenty-five feet (25') adjacent to a public street or residential lot
- (C) **Interior Side Yards** - When retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site, creating lease spaces abutting one another, no side yard is required provided it complies with the Village's Building Code.
- (D) **Minimum Rear Yard** - Twenty-five feet (25')

- (E) **Adjacent to a Single-Family District** - The side or rear setback, whichever is adjacent to the single-family zoning district, shall observe a sixty-foot (60') setback if the retail use is over one (1) story in height.
- (3) **Maximum Lot Coverage:** This is not addressed in this article.
- (4) **Maximum Building Size:** The maximum foot print size of a structure shall not exceed 20,000 square feet.
- (5) **Parking Regulations:**

As required by Sec. 12.131, Off-Street Parking and Loading Requirements.

(e) **Special Requirements:**

- (1) Building facade (elevation) plans shall be submitted for Commission review and approval by the Governing Body along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Village Administrator may, as he or she deems appropriate, require submission of additional information and materials, including actual samples of materials to be used, during the Site Plan review process.
- (2) Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins, shall be limited to the following:
 - (A) Shall not be placed or located more than thirty feet (30') from the main building.
 - (B) Shall not occupy any of the parking spaces that are required by this article for the primary use(s) of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.
 - (C) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.
 - (D) Shall not extend into public right-of-way or onto adjacent property.
 - (E) All outside display items shall be removed at the end of business each day, except for large seasonal items such as Christmas trees.
 - (F) All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.
- (3) For landscaping requirements, see Sec. 12.132.

- (4) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.
- (5) **Hours of Operation** - All permitted uses within this district, with the exception of restaurants, healthcare facilities, lodging facilities such as motels and hotels, emergency veterinary services, and government and public uses, shall have hours of operation between 6:00 a.m. and 10:00 p.m.
- (6) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.121 R -- Retail District

(a) General Purpose and Description:

The R -- Retail District is established to provide areas for local neighborhood shopping and service facilities for the retail sales of goods and services. These shopping areas should utilize established landscape and buffering requirements. The R District should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.

(b) Permitted Uses:

Those uses listed for the R - Retail District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) Height Regulations:

Maximum Height:

- (1) Two (2) stories or thirty-five feet (35') for the main building(s).
- (2) One (1) story for accessory buildings.
- (3) Other (Sec. 12.135).

(d) Area Regulations:

(1) Size of Lot:

- (A) **Minimum Lot Area** - Twenty thousand (20,000) square feet
- (B) **Minimum Lot Width** - One hundred feet (100')
- (C) **Minimum Lot Depth** - One hundred fifty feet (150')

(2) **Size of Yards:**

- (A) **Minimum Front Yard** - Twenty-five feet (25'); all yards adjacent to a street shall be considered a front yard. See Section 32 through 36 for any additional setback requirements.
- (B) **Minimum Side Yard** - Twenty-five feet (25'); Twenty-five feet (25') adjacent to a public street or residential lot
- (C) **Interior Side Yards** - When retail uses are platted adjacent to other retail uses and integrated into an overall shopping center site, creating lease spaces abutting one another, no side yard is required provided it complies with the Village's Building Code.
- (D) **Minimum Rear Yard** - Twenty-five feet (25')
- (E) **Adjacent to a Single-Family District** - The side or rear setback, whichever is adjacent to the single-family zoning district, shall observe a sixty-foot (60') setback if the retail use is over one (1) story in height.

(3) **Maximum Lot Coverage:** This is not addressed in this article.

(4) **Maximum Building Size:** The maximum building foot print area shall not exceed 35,000 square feet.

(5) **Parking Regulations:**

As required by Sec. 12.131, Off-Street Parking and Loading Requirements.

(e) **Special Requirements:**

- (1) Building facade (elevation) plans shall be submitted for Commission review and approval by the Governing Body along with the Site Plan, as required by Sec. 12.111. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Village Administrator may, as he or she deems appropriate, require submission of additional information and materials, including actual samples of materials to be used, during the Site Plan review process.
- (2) Open storage is limited to a maximum of five percent (5%) of the total lot area, shall not be located in front of or on top of the building, shall not be located facing any street, and must be screened in accordance with the provisions of Sec. 12.133. They cannot be visible from any public street or adjacent property. However, periodic display of seasonal items, such as Christmas trees and pumpkins, is allowed during the appropriate time periods. Provisions for outside display are stated below.
- (3) Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins shall be limited to the following:

- (A) Shall not be placed or located more than thirty feet (30') from the main building.
 - (B) Shall not occupy any of the parking spaces that are required by this article for the primary use(s) of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.
 - (C) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.
 - (D) Shall not extend into public right-of-way or onto adjacent property.
 - (E) All outside display items shall be removed at the end of business each day, except for large seasonal items such as Christmas trees.
 - (F) All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.
- (4) For landscaping requirements, see Sec. 12.132.
 - (5) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.
 - (6) **Hours of Operation** - All permitted uses within this district, with the exception of restaurants, healthcare facilities, lodging facilities, such as motels and hotels, emergency veterinary services, and government and public uses, shall have hours of operation between 8:00 a.m. and 10:00 p.m.
 - (7) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.122 TC – Town Center District

(a) General Purpose And Description:

The TC – Town Center District is intended to be an environmentally sensitive, mixed-use focal point for the Village. This district is only appropriate along State Highway 71 in the vicinity of the intersection of F.M. 620 and Bee Cave Road. A mixture of retail, office, governmental and residential uses is appropriate for the Town Center. Additionally, public pedestrian walkways, open areas and extensive landscaping are desired in order to promote interaction along different land uses and to create a "pedestrian friendly" environment. Wherever possible, pedestrian-oriented design concepts, such as "new urbanism", "neo-traditional planning", and "traditional neighborhood districts (TNDs)" should be utilized. The following are key concepts that should be acknowledged through development practices within the Town Center:

- Residential uses are encouraged in conjunction with nonresidential activities in order to create an active central area of the Village, as well as to reduce vehicular traffic and

encourage pedestrian traffic;

- All types of residential uses should be encouraged, including single-family homes, townhouses, condominiums and multi-family units; some housing should be provided above retail establishments;
- The Town Center should have a central green space that is surrounded by a mixture of uses, including shops, lodging facilities, civic facilities and churches;
- Retail uses within the Town Center should be constructed at a "human scale", with an emphasis on small, specialty shops;
- Traffic flows within the Town Center should enable people to move freely without the use of an automobile by emphasizing the Village trail system; and
- Outside social gathering spaces, such as small parks and courtyards should be an integral part of the Town Center.

(b) Permitted Uses:

Those uses listed for the TC District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) Height Regulations:

Maximum Height:

- (1) Fifty feet (50') for the main building(s), up to a maximum of three stories.
- (2) One (1) story for accessory buildings.
- (3) Other (Sec. 12.135).

(d) Area Regulations:

(1) Size of Lot:

- (A) **Minimum Lot Area** - none specified.
- (B) **Minimum Lot Width** - none specified.
- Minimum Lot Depth** - none specified.

(2) Size of Yards:

- (A) **Minimum Front Yard** - See Sec. 12.135 for setbacks required along S.H.71, F.M. 620 and Bee Cave Road.
- (B) **Minimum Side Yard** - none specified.
- (C) **Minimum Rear Yard** - none specified.

- (3) **Maximum Lot Coverage** - This is not addressed in this article.
 - (4) **Building Size for Nonresidential Structures:** The minimum building footprint area shall not be less than 1,500 square feet. The maximum building foot print area shall not exceed 50,000 square feet; provided that any single contiguous tract of 50 or more acres shall be permitted one building of more than 50,000 square feet, but not more than 85,000 square feet per each 50-acre portion of such tract.
 - (5) **Minimum Building Separation for Nonresidential Structures:** There shall be a minimum thirty-foot (30') separation, or greater if required by the applicable Fire Code, between structures.
 - (6) **Parking Regulations:**
 - (A) As required by Section 12.131, Off-Street Parking and Loading Requirements.
 - (B) The required number of parking spaces may be reduced if approved as part of the site plan. In no case shall the required parking be reduced in excess of twenty-five (25) percent of the required spaces, as set forth in Sec. 12.131.
 - (7) **"T" Model Design:** The "T" model design for major retailers, which is lined with smaller store fronts, is encouraged as a neighborhood friendly design which would bring store fronts to the street and encourage pedestrian activity. (See Illustration #13).
- (e) **Approval Requirements:**
- (1) **Site Plan Review** - Public hearings, review and approval of a site plan by the Commission and the Governing Body, in accordance with Sec. 12.111, shall be required for site redevelopment or the construction of any new structure within the TC District. No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the Governing Body.
 - (2) For site redevelopment or new construction, building facade (elevation) plans shall be submitted for Commission review and approval by the Governing Body along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the road(s) upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. Architectural style and scale of buildings within the TC district shall be compatible with the styles and scale of other adjacent buildings, if applicable.
- The Village Administrator may, as he or she deems appropriate, require submission of additional information and materials, including actual samples of materials to be used, during the site plan review process.
- (3) A public hearing is required by the Commission and the Governing Body for all site plans. Development standards for all uses in the TC District shall be established on the site plan

and all supporting information will be required at the time of approval.

(f) **Special Requirements:**

(1) **Design Criteria for the TC District:**

- (A) Development in the TC District shall have characteristics that result in a compact, mixed use, pedestrian-oriented, and environmentally sensitive community.
- (B) Development proposals shall be consistent with the Comprehensive Plan Concept for the Town Center.
- (C) Reflective glass shall not be used for windows; detailing for windows, doors and other openings shall be of wood, glass or a metal material that is complementary to the period or building style.
- (D) **Required Massing for Nonresidential Structures:** In order to ensure the aesthetic value and visual appeal of nonresidential land uses and structures, the facades of all structures must be offset, varied and articulated, at least five feet (5') in depth for every fifty feet (50') in horizontal or vertical surface length.

Facade offsets shall be shown, along with calculations verifying that the building elevations meet the above requirement, on a building facade (elevation) plan submitted for Commission review and approval by the Governing Body along with the Site Plan.

- (E) **Overhead Power Lines** - New utility lines to business establishments shall be placed underground or toward the rear of existing buildings.
- (F) **Pedestrian Streetscape** - Pedestrian spaces shall be treated with amenities that are selected based upon their ability to unify the streetscape. It is important that elements such as construction materials, colors, textures and fixture design complement the TC Concept. These features shall be repeated throughout the streetscape so as to unify the district as a whole.
- (G) **Outside display of merchandise and seasonal items**, such as Christmas trees and pumpkins, shall be limited to the following:
 - 1. Shall not be placed or located more than twenty feet (20') from the main building.
 - 2. Shall not occupy any on-street or off-street parking spaces.
 - 3. Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way. Sidewalk sales shall not block the sidewalk or extend out into the street.

4. Shall not extend into public right-of-way or onto adjacent property.
5. All outside display items shall be removed at the end of business each day, except for large seasonal items such as Christmas trees.
6. All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

(H) Architectural Design:

1. The architectural standards must achieve the following objectives:
 - a. Architectural compatibility;
 - b. Human scale design;
 - c. Integration of uses;
 - d. Encouragement of pedestrian activity;
 - e. Buildings that relate to, and are oriented toward, the pedestrian areas and surrounding buildings;
 - f. Residential scale buildings in mixed residential areas;
 - g. Buildings that are designed with facade variation;
 - h. Buildings that contain special architectural features to signify entrances;
 - i. Buildings that focus activity on neighborhood square or public plazas.
 2. All building materials shall be established on architectural elevations and supporting information. Refer to Sec. 12.134 for acceptable building materials.
- (2) **Hours of Operation** - All permitted uses within this district, with the exception of restaurants, healthcare facilities, lodging facilities such as motels and hotels, emergency veterinary services, and government and public uses, shall have hours of operation between 8:00 a.m. and 2:00 a.m.
- (3) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through 12.138.

Sec. 12.123 C – Commercial District

(a) General Purpose and Description:

The C – Commercial District is intended to provide a location for commercial and service-related establishments, such as wholesale product sales, welding and contractors shops, plumbing shops, automotive repair services, upholstery shops, and other similar commercial uses. Uses in this district may utilize open storage areas that are screened from public view. Some light manufacturing may also be allowed with certain conditions. The uses envisioned for the district will typically utilize

smaller sites and have operation characteristics which are generally not compatible with residential uses and some nonresidential uses. Convenient access to thoroughfares and collector streets is also a primary consideration.

(b) **Permitted Uses:**

Those uses listed for the C - Commercial District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) **Height Regulations:**

Maximum Height:

- (1) Two (2) stories or thirty-five feet (35') for the main building.
- (2) One (1) story for accessory buildings.

(d) **Area Regulations:**

(1) **Size of Lot:**

- (A) **Minimum Lot Area** - Twenty thousand (20,000) square feet
- (B) **Minimum Lot Width** - Eighty feet (80')
- (C) **Minimum Lot Depth** - One hundred ten feet (110')

(2) **Size of Yards:**

- (A) **Minimum Front Yard** - Twenty-five feet (25'); all yards adjacent to a street shall be considered a front yard. See Section 36 for additional setback requirements.
- (B) **Minimum Side Yard** - Twenty-five feet (25'); Twenty-five feet (25') adjacent to a public street or residential lot
- (C) **Minimum Rear Yard** - Twenty-five feet (25')
- (D) **Adjacent to a Single-Family District** - The side or rear setback, whichever is adjacent to the single-family zoning district, shall observe a sixty-foot (60') setback if the use is over one (1) story in height.

- (3) **Maximum Lot Coverage:** This is not addressed in this article.

- (4) **Maximum Building Size:** The maximum foot print size of a structure shall not exceed 20,000 square feet.

- (5) **Parking Regulations:** As established by Sec. 12.131, Off-Street Parking and Loading Requirements.

(e) **Special Requirements:**

- (1) Building facade (elevation) plans shall be submitted for Commission review and approval by the Governing Body along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Village Administrator may, as he or she deems appropriate, require submission of additional information and materials, including actual samples of materials to be used, during the Site Plan review process.
- (2) Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins shall be limited to the following:
 - (A) Shall not be placed or located more than thirty feet (30') from the main building.
 - (B) Shall not occupy any of the parking spaces that are required by this article for the primary use(s) of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.
 - (C) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.
 - (D) Shall not extend into public right-of-way or onto adjacent property.
 - (E) All outside display items shall be removed at the end of business each day, except for large seasonal items such as Christmas trees.
 - (F) All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.
- (3) All buildings and walls shall have at least seventy-five percent (75%) masonry exterior construction, exclusive of doors and windows.
- (4) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.
- (5) No permanent use of temporary buildings.
- (6) **Hours of Operation** - All permitted uses within this district, with the exception of restaurants, healthcare facilities, lodging facilities, such as motels and hotels, emergency veterinary services, and government or public uses, shall have hours of operation between 6:00 a.m. and 10:00 p.m.
- (7) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.124 MU -- Mixed Use District

(a) General Purpose and Description:

The MU -- Mixed Use District is intended to provide a mixture of uses but contain mostly residential uses. The residential uses should be either SFA, SF-PH or MF-1 uses. Uses should be arranged on the site such that they complement one another, although much flexibility is allowed on how each use is situated on the site. Non-residential uses should consist of office, neighborhood service, and retail uses. Design and development standards are established on the site plan. Additionally, public pedestrian walkways, open areas and extensive landscaping are desired in order to promote interaction along different land uses and to create a "pedestrian friendly" environment. The following are key concepts that should be acknowledged through development practices within the MU District:

- Residential uses are encouraged in conjunction with nonresidential activities in order to create a pedestrian-oriented environment, as well as to reduce vehicular traffic and encourage pedestrian traffic;
- All types of residential uses should be encouraged, including single-family homes, townhouses, condominiums and multi-family units; some housing should be provided above retail establishments;
- Ample green space should be provided in conjunction with a mixture of uses, including shops, lodging facilities, civic facilities and churches;
- Retail uses within the MU District should be constructed at a "human scale", with an emphasis on small, specialty shops;
- Traffic flows within the MUDistrict should enable people to move freely without the use of an automobile by emphasizing the Village trail system; and
- Outside social gathering spaces, such as small parks, courtyards should be an integral part of any mixed use development.

(b) Permitted Uses:

Those uses listed for the MU District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) **Height Regulations:**

Maximum Height:

- (1) Three (3) stories, but limited to a maximum height of fifty feet (50').
- (2) One (1) story for accessory buildings.
- (3) Other (Sec. 12.135).

(d) **Area Regulations:**

(1) **Size of Lot:**

- (A) **Minimum Lot Area** - Twenty thousand (20,000) square feet
- (B) **Minimum Lot Width** - One hundred feet (100')
- (C) **Minimum Lot Depth** - One hundred feet (100')

(2) **Size of Yards:**

- (A) **Minimum Front Yard** - Fifty feet (50'); all yards adjacent to a street shall be considered a front yard. See Sec. 12.131 through Sec. 12.135 for any additional setback requirements.
- (B) **Minimum Side Yard** - Twenty-five feet (25')
- (C) **Interior Side Yards** - None.
- (D) **Minimum Rear Yard** - Twenty-five feet (25')
- (E) **Adjacent to a Residential District** - The side or rear setback, whichever is adjacent to the residential zoning district, shall observe a sixty-foot (60') setback for any building that is over one (1) story in height, a two hundred foot (200') setback for buildings over two (2) stories or thirty-five feet (35') in height.

- (3) **Maximum Lot Coverage:** This is not addressed in this article.

- (4) **Building Size for Nonresidential Structures:** The minimum building footprint area shall not be less than 1,500 square feet. The maximum building foot print area shall not exceed 50,000 square feet.

(5) **Parking Regulations:**

As required by Sec. 12.131, Off-Street Parking and Loading Requirements. The required number of parking spaces may be reduced if approved as part of the site plan. In no case shall the required parking be reduced in excess of twenty-five (25) percent of the required spaces, as set forth in Sec. 12.131.

(e) **Special Requirements:**

- (1) **Site Plan Review** - Public hearing, review and approval of a site plan by the Planning and Zoning Commission and the Governing Body, in accordance with Sec. 12.111, shall be required for any tract or lot within the MU District. No certificate of occupancy shall be

issued unless all construction and development conforms to the site plan as approved by the Governing Body.

- (2) Building facade (elevation) plans shall be submitted for Commission review and approval by the Governing Body along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Village Administrator may, as he or she deems appropriate, require submission of additional information and materials, including actual samples of materials to be used, during the site plan review process.
- (3) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.
- (4) Open Storage is prohibited in the MU District.
- (5) Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins shall be limited to the following:
 - (A) Shall not be placed or located more than thirty feet (30') from the main building.
 - (B) Shall not occupy any of the parking spaces that are required by this article for the primary use(s) of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.
 - (C) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.
 - (D) Shall not extend into public right-of-way or onto adjacent property.
 - (E) All outside display items shall be removed at the end of business each day, except for large seasonal items such as Christmas trees.
 - (F) All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.
- (6) **Hours of Operation** - All permitted uses within this district, with the exception of restaurants, healthcare facilities, lodging facilities such as motels and hotels, emergency veterinary services, and government and public uses, shall have hours of operation between 8:00 a.m. and 8:00 p.m.
- (7) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.125 P -- Public Use District

(a) General Purpose and Description:

The P -- Public District is intended to accommodate uses of a governmental, civic, public service, or public institutional nature, including major public facilities. The review of the location for public facilities is intended to facilitate the coordination of community services while minimizing the potential disruption of the uses of nearby properties. This district is intended to be used for properties used, reserved, or intended to be used for a civic or public institutional purpose or for major public facilities, with these provisions.

(b) Permitted Uses:

Those uses listed for the P District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) Height Regulations:

Maximum Height:

- (1) Three (3) stories, but limited to a maximum height of fifty feet (50').
- (2) One (1) story for accessory buildings.
- (3) Other - Refer to Sec. 12.135.

(d) Area Regulations:

(1) Size of Lot:

- (A) **Minimum Lot Area** - Twenty thousand (20,000) square feet
- (B) **Minimum Lot Width** - One hundred feet (100')
- (C) **Minimum Lot Depth** - Two hundred feet (200')

(2) Size of Yards:

- (A) **Minimum Front Yard** - Fifty feet (50'); all yards adjacent to a street shall be considered a front yard. See Sec. 12.131 through Sec. 12.135 for any additional setback requirements.
- (B) **Minimum Side Yard** - Twenty-five feet (25')
- (C) **Minimum Rear Yard** - Twenty-five feet (25')
- (D) **Adjacent to a Residential District** - The side or rear setback, whichever is adjacent to a residential zoning district, shall observe a sixty-foot (60') setback for any occupied building that is over one (1) story in height, and a two hundred foot (200') setback for occupied buildings over two (2) stories or thirty-five feet (35') in height.

(3) **Maximum Lot Coverage:** This is not addressed in this article.

(4) **Parking Regulations:**

As established by Sec. 12.131, Off-Street Parking and Loading Requirements.

(e) **Special Requirements:**

(1) **Site Plan Review** - Review and approval of a site plan by the Commission and the Governing Body, in accordance with Sec. 12.111, shall be required for any tract or lot within the P district. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the Governing Body.

(2) Building facade (elevation) plans shall be submitted for Commission review and approval by the Governing Body along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces and/or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Village Administrator may, as he or she deems appropriate, require submission of additional information and materials, including actual samples of materials to be used, during the Site Plan review process.

(3) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.

(4) Open Storage is prohibited in the P District.

(5) Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins shall be limited to the following:

(A) Shall not be located more than thirty feet (30') from the main building.

(B) Shall not occupy any of the parking spaces that are required by this article for the primary use(s) of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.

(C) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way.

(D) Shall not extend into public right-of-way or onto adjacent property.

(6) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.126 DR – Development Reserve District

(a) General Purpose and Description:

The DR -- Development Reserve District is intended to prevent isolated, inappropriate, or premature uses from locating on lands for which adequate public services and facilities are unavailable, or for which a determination of the most appropriate zoning district is precluded by a lack of economic, demographic, geographic, or other data customarily utilized in establishment of permanent district classifications, or for which a land use and urban development plan has not been completed. It is intended that the DR District shall be replaced by other district classifications consistent with the Comprehensive plan when such limiting conditions no longer apply. Only those uses which are of unquestionably interim nature, or will not prematurely commit the land to particular use pattern or intensity of development, are allowable within the DR District.

(b) Permitted Uses:

Those uses listed for the DR District in Sec. 12.130 as "P" or "C" are authorized uses permitted by right or conditionally permitted uses, respectively. Conditional uses must be approved utilizing procedures set forth in Sec. 12.129.

(c) Height Regulations:

Maximum Height:

- (1) Occupied structures and buildings - Three (3) stories or forty-five feet (45'), but limited to a maximum height of thirty-five feet (35') on any portion of the site that is within two hundred feet (200') of any residentially zoned property.
- (2) Unoccupied structures, such as grain silos, barns, private water towers or utility structures, communications antennae, - Sixty feet (60'); Where any structure over thirty-five feet (35') in height is to be constructed on a site that is adjacent, or in close proximity, to a residential zoning district, additional setback, including front, side and rear yard distance must be provided from the residential zoning district boundary line of one (1) additional foot for each foot that such structures exceed thirty-five feet (35'). (Sec. 12.130 addresses communications antennae and support structures or towers.)
- (3) Other - Refer to Sec. 12.135(d).

(d) Area Regulations:

(1) Size of Lot:

- (A) **Minimum Lot Area** - Twenty thousand (20,000) square feet
- (B) **Minimum Lot Width** - One hundred feet (100')

- (C) **Minimum Lot Depth** - Two hundred feet (200')
- (2) **Size of Yards:**
 - (A) **Minimum Front Yard** - Fifty feet (50'); all yards adjacent to a street shall be considered a front yard. See Sec. 12.131 through Sec. 12.135 for any additional setback requirements.
 - (B) **Minimum Side Yard** - Twenty-five feet (25')
 - (C) **Minimum Rear Yard** - Twenty-five feet (25')
 - (D) **Adjacent to a Residential District** - The side or rear setback, whichever is adjacent to a residential zoning district, shall observe a sixty-foot (60') setback for any occupied building that is over one (1) story in height, and a two hundred foot (200') setback for occupied buildings over two (2) stories or thirty-five feet (35') in height.
- (3) **Maximum Lot Coverage:** This is not addressed in this article.
- (4) **Parking Regulations:**

As established by Sec. 12.131, Off-Street Parking and Loading Requirements.
- (e) **Special Requirements:**
 - (1) **Site Plan Review** - Review and approval of a site plan by the Commission and the Governing Body, in accordance with Sec. 12.111, shall be required for any tract or lot within the DR District. No certificate of occupancy shall be issued unless all construction and development conforms to the Site Plan as approved by the Governing Body.
 - (2) Building facade (elevation) plans shall be submitted for Commission review and approval by the Governing Body along with the Site Plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces or sides, and will portray a reasonably accurate depiction of the materials and colors to be used. The Village Administrator may, as he or she deems appropriate, require submission of additional information and materials, including actual samples of materials to be used, during the Site Plan review process.
 - (3) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling or nonresidential purposes.
 - (4) No permanent use of temporary buildings.
 - (5) **Hours of Operation** - All permitted uses within this district, with the exception of restaurants, healthcare facilities, lodging facilities such as motels and hotels, emergency veterinary services, and government and public uses, shall have hours of operation between 8:00 a.m. and 10:00 p.m.
 - (6) **Other Regulations:** As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

Sec. 12.127 PD – Planned Development District

(a) Purpose:

The purpose of a PD -- Planned Development District is to provide for the development of land as an integral unit for single or mixed use in accordance with a PD Concept Plan that may include uses, regulations and other requirements that vary from the provisions of other zoning districts. PD Districts are intended to implement generally the goals and objectives of the Village's Comprehensive Plan. PD Districts are also intended to encourage flexible and creative planning, to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community by meeting one or more of the following purposes:

- (1) To provide for a superior design of lots or buildings;
- (2) To provide for increased recreation and open space opportunities for public use;
- (3) To provide rural amenities or features that would be of special benefit to the property users or community;
- (4) To protect or preserve natural amenities and environmental assets such as trees, creeks, ponds, floodplains, slopes, hills, viewscapes, and wildlife habitats;
- (5) To protect or preserve existing historical buildings, structures, features or places;
- (6) To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services; and,
- (7) To meet or exceed the present standards of this article.

(b) Nature of District and Minimum Standards:

Each PD District shall be a free-standing zoning district in which land uses and intensities of land use may be tailored to fit the physical features of the site and to achieve compatibility with existing and planned adjacent uses. Minimum standards for residential and non-residential uses proposed for the PD District must be incorporated within an ordinance adopted by the Governing Body. In the adopting ordinance, the Governing Body may incorporate minimum standards by making reference to a standard zoning district.

(1) Land Use

- (A) **Uses -** An application for a PD District shall specify the base zoning district upon which the PD is based, and the use or the combination of uses proposed, particularly if any of the proposed uses are not allowed by right in the base zoning district. PD designations shall not be attached to CUP requirements. Conditional

use permits allowed in a base zoning district may be allowed in a PD only if specifically identified at the time of PD approval, and if specifically cited as an "additional use" in the ordinance establishing the PD. Additional uses are those uses allowed by right in the base zoning district.

- (B) Location - The location of all authorized uses shall be consistent with the PD concept plan and PD site plan.
- (C) Residential Uses - Unless otherwise provided by the PD ordinance, the following standards shall apply to all residential uses within a PD District:
 - 1. Except on the basis of exceptional design and provision of enhanced open space, residential density shall be no smaller than the lot sizes allowed in the base zoning district for each type of housing except for minor changes in a small percentage of the lots in order to provide improved design or flexibility in the layout of the subdivision.
 - 2. Drainage - Drainage features shall be integrated into the design of the development and shall be contained within ponds and streams with a natural appearance wherever possible.
- (D) Nonresidential Uses - Unless otherwise provided by the PD ordinance, the following standards shall apply to all non-residential uses within a PD District:
 - 1. Height - No structure shall exceed the lower of three (3) stories or fifty (50') feet above natural grade.
 - 2. Drainage - Drainage features shall be integrated into the design of the development and shall be contained within ponds and streams with a natural appearance wherever possible.

(2) Open Space Standards

- (A) Public and Private Open Space - Unless otherwise provided by the PD ordinance, a minimum of twenty percent (20%) of the gross land area within the entire PD District shall be devoted to open space, consistent with the open space recommendations in the Village's Comprehensive Plan. Open space for PD Districts may be satisfied by either public or a combination of public and private open space. Open space requirements specified in this Subsection are in addition to requirements for site landscaping and buffering. Public open space shall be dedicated to the Village.
- (B) Preservation of Natural Features - Unless otherwise provided by the PD ordinance or PD concept plan:
 - 1. Floodplain areas shall be preserved and maintained as open space; and

2. Significant stands of native trees and shrubs shall be preserved and protected from destruction or alteration (see Sec. 12.132(h)).

(C) **Open Space Allocation and Preservation** - Open space requirements shall be satisfied for each phase of a multi-phased residential or nonresidential development. If open space is not to be provided proportionally among phases of development, the applicant must execute a reservation of open space in a form that will assure the Village that such open space will be provided. The Village may require that all open space within the district must be provided prior to completion of development within the district.

- (3) **Dimensional and Area Standards** - Unless otherwise provided by the PD ordinance, dimensional and area standards for uses shall be the most restrictive standards authorized by the Village's zoning regulations for the same or similar uses.

(c) **Plans Required:**

There are two types of plans that may be required as part of the development process within a PD District. The procedures to be followed for the review of each plan shall be as provided in Sec. 12.111 of this article. Approval of the concept plan shall occur along with the PD zoning request. The general purpose and use of each plan is described as follows:

- (1) **PD Concept Plan** - The PD concept plan is mandatory, and is intended to be used as the first step in the PD development process. It establishes general guidelines for the PD District by identifying the proposed land uses and intensities, thoroughfare locations, and open space boundaries, including public trail systems. It also illustrates the integration of these elements into a master plan for the whole PD District. The PD concept plan, as incorporated in the PD ordinance and together with the text of the ordinance, establishes the development standards for the PD District.
- (2) **Site Plan** - A site plan is mandatory and is the final step of the development process for nonresidential and multi-family residential development. The purposes of a site plan are to assure that the development of individual building lots, parcels, or tracts within the PD district are consistent with the approved concept plan and development plan, if any, and to assure that the standards applicable within the PD District are met for each such lot, parcel or tract. The approval of a site plan shall be effective for a period of 183 calendar days beyond the date that the plan was approved by the Governing Body, unless extended, as provided in Sec. 12.111(k) of this article.

(d) **Compliance with Approved Plans:**

Except as otherwise provided by the Village's Subdivision Regulations, no development shall begin and no building permit shall be issued for any land within a PD District until a PD site plan that is consistent with the PD concept plan has been approved. Each PD District shall be developed, used, and maintained in compliance with the approved PD site plans for the district. Compliance with the

PD ordinance shall be construed as a condition precedent to granting of Certificates of Occupancy.

(e) **Establishment of District and Concept Plan**

- (1) **Zoning Amendment** - The procedures for establishing a PD District shall be as for any other type of zoning request, except that more information is typically needed along with the request, and a concept plan shall be submitted along with the request. An application for the establishment of a PD District shall be submitted in accordance with Sec. 12.109(c) of this article. The application shall include: (1) a PD concept plan ; (2) a list of proposed PD District development standards; (3) identification of a zoning district, if any, which shall apply to the extent not otherwise provided by the PD concept plan or by the proposed PD District development standards; (4) an informational statement, and (5) traffic impact analysis, unless waived by the Governing Body. Except to the extent provided by the PD concept plan and the PD ordinance, development within the PD District shall be governed by all of the ordinances, rules, and regulations of the Village in effect at the time of such development, including the standards of the zoning district identified in the application. In the event of any conflict between the PD concept plan and the PD ordinance and the then-current ordinances, rules, and regulations of the Village, the terms, provisions, and intent of the PD concept plan and PD ordinance shall control.
- (2) **PD Concept Plan** - A concept plan shall be submitted along with a PD zoning request, and shall be processed simultaneously with the PD zoning request. The concept plan shall be reviewed by the Village's development review team, in accordance with Sec. 12.111 of this article. If the PD zoning application is approved, the PD concept plan shall be incorporated and made a part of the PD ordinance.
- (3) **Proposed PD Development Standards** - Proposed PD District development standards shall be processed simultaneously with the PD zoning application, and if the PD zoning application is approved, such standards shall be incorporated as part of the PD ordinance. Such proposed development standards may include, but shall not be limited to, uses; density; lot size; building size; lot dimensions; setbacks; coverage; height; landscaping; lighting; screening; fencing; parking and loading; signage; open space; drainage; and utility and street standards. Any graphic depictions used to illustrate such standards, unless otherwise provided in the PD ordinance, shall be considered as regulatory standards. In the event of any conflict, the more stringent standards shall apply.
- (4) **Concept Plan Informational Statement** - A PD concept plan shall be accompanied by an informational statement containing the information set forth below. If the PD zoning application is approved, the informational statement shall not be binding on the applicant or the land owner, and shall not be considered part of the PD concept plan or the PD ordinance. Informational statements shall be updated concurrently with any amendment to the PD concept plan. Each statement shall include the following:
 - (A) A general statement setting forth how the proposed PD District will relate to the Village's Comprehensive Plan;

- (B) The total acreage within the proposed PD District;
 - (C) If the development is to occur in phases, a conceptual phasing plan that identifies the currently anticipated general sequence of development, including the currently anticipated general sequence for installation of major capital improvements to serve the development; and
 - (D) An aerial photograph with the boundaries of the PD concept plan clearly delineated.
- (5) **Traffic Impact Analysis** - The applicant shall submit to the Village engineer a traffic impact analysis, as described in Division 2 of the Village Subdivision Ordinance, for the proposed PD District. The analysis must be approved by the Governing Body prior to or concurrently with the approval by the Governing Body of the PD District. The traffic analysis shall not be considered part of the PD concept plan or the PD ordinance, but may be used to condition the density or intensity of uses or the timing of development within the district based upon the existence of a supporting roadway network adequate to accommodate the traffic expected to be generated. The traffic impact analysis shall be updated with each PD site plan.
 - (6) **Official Submission Date and Completeness of Application** - Refer to Sec. 12.109(c) of this article.

(f) **Project Design:**

It is the intent of these regulations to encourage outstanding project design for planned development districts in order to implement the policies contained in the Village's Comprehensive Plan. The Village recognizes that project design is an important and variable element in implementing Comprehensive Plan policies relating to planned development districts and overall community objectives. The extent to which maximum residential densities can be achieved may depend upon project design. The following standards will be used to evaluate project design:

- (1) The arrangement of all uses and improvements should reflect the natural capabilities and limitations of the site as well as the characteristics and limitations of adjacent property.
- (2) Development must be compatible with the immediate environment of the site and neighborhood relative to architectural design; scale, bulk and building height; historical character; and disposition and orientation of buildings on the lot.
- (3) Buildings, transportation improvements, and open space areas, must be arranged on the site so that activities are compatible with the neighborhood.
- (4) Buildings, transportation improvements, open space, and landscaping, must be designed and arranged to produce an efficient, functionally organized, and cohesive development.

- (5) Buildings, transportation improvements, open space and landscaping, must be in favorable relationship to the existing natural topography, natural vegetation and creeks, exposure to sunlight and wind, and long or scenic views.
- (6) The project should preserve and enhance the natural character of the site, and should be designed to reflect the existing topography and natural systems. Vegetative communities located in floodplains, existing tree stands and along steep slopes should be maintained as open areas and wildlife habitat. Creeks and streams should be preserved and enhanced as amenities.
- (7) The project should preserve historic elements of the site, including features such as farm structures and dwellings, stone wells, entry features, windmills, or other features that illustrate the historic resources of the site.
- (8) The project should be integrated with the Village's open space network as described in the Parks and Open Space Plan of the Comprehensive Plan, including provision of a trail that would connect to the overall trail system of the Village. Public or common uses and open space should be connected together to promote pedestrian usage. Utilization of open space should be enhanced through provision of amenities.

(g) **PD Site Plans**

Site plan review and approval for any building site within a PD District shall be in accordance with Sec. 12.111 of this article.

(h) **Amendment of Plans**

- (1) **PD Concept Plans** - PD concept plans, excluding informational statements, are considered part of the PD ordinance. Any amendment to a PD concept plan shall be considered a zoning change, and shall be processed pursuant to Sec. 12.109 of this article.
- (2) **PD Site Plans** - PD site plans are not considered part of a PD ordinance. Except as otherwise provided in this subsection, any amendment to an approved PD site plan shall be in accordance with Sec. 12.111 of this article.

(i) **Lapse of Concept Plan or Site Plan Approval** - Lapse of a concept plan or site plan shall be in accordance with Sec. 12.111(j) of this article.

(j) **Extension And Reinstatement Procedure** - Extension of a concept plan or site plan shall be in accordance with Sec. 12.111(k) of this article.

(k) Effect on Prior Planned Development Site Plans

For any PD District established prior to the effective date of this article for which at least one site plan has been approved pursuant to prior Village regulations in effect at the time of approval, the provisions of this article shall not apply, except that procedures related to approval of PD site plans pursuant to Sec. 12.127(g) shall apply to any application for PD site plan approval submitted more than thirty (30) days after the effective date of this article.

(l) Effect on Planned Development District Amendments

If an amendment is proposed after the effective date of this article to any concept plan, development plan, site plan or planned development ordinance approved prior to such effective date and under prior planned development regulations, the provisions of this article shall apply to such proposed amendment.

(m) Planned Development Listing

A list of approved PD's, if any, will be located in Appendix A.

Sec. 12.128 PRO -- Planned Residential Overlay District

(a) General Purpose and Description:

The PRO -- Planned Residential Overlay District is intended to combine with the residential base districts established within this Zoning Ordinance in order to implement the goals and policies of the Comprehensive Plan concerning cluster residential densities. The purpose of the District is to provide for flexibility and to encourage superiority in the design of residential developments by allowing increased density in exchange for provision of open space, protection of environmentally sensitive areas, and other amenities. The types of uses allowed and the types of performance standards applicable to a planned residential development approved as a PRO District vary with the base district with which the PRO District combines. For some base zoning districts, different levels of increased densities may be allowed. Accordingly, greater amenities must be provided in order to achieve higher density.

(b) Permitted Uses:

The uses authorized in a PRO District shall be limited to those authorized in the base zoning district. Satisfaction of the minimum standards for planned residential developments set forth in the base regulations does not assure establishment of the PRO District. For PRO developments which include golf courses, other uses which support golf courses may be appropriate and designated on the site plan. The following uses are considered appropriate supporting uses for golf course

development:

- (1) Club houses and related recreational uses
- (2) Offices
- (3) Motel or hotel
- (4) Golf pro shop (retail sales only)
- (5) Restaurants

Land used for the purposes of the above nonresidential uses shall not be used in the calculation of residential density.

(c) **Parking Regulations:**

- (A) **Single-Family Dwelling Unit** - A minimum of two (2) enclosed parking spaces behind the front building line and on the same lot as the main structure
- (B) **Other** - (See Sec. 12.131, Off-Street Parking and Loading Requirements)

(d) **Minimum Floor Area per Dwelling Unit:** 1,000 square feet.

(e) **General Standards for Planned Residential Overlay District:**

- (1) **Maximum Number of Dwelling Units** - The maximum number of dwelling units that may be authorized for a planned residential development in a PRO District is limited by a number of factors, including project size, project density, minimum land area per dwelling unit, lot mix, and open space allocation. General rules applicable to these factors are set forth in this section. Specific limitations are contained in base district regulations. The actual number of dwelling units approved may be less than the maximum allowed for a planned residential development in the base district regulations, depending on the provision of amenities and other considerations, as the Governing Body may determine to be appropriate for the land to be rezoned.
- (2) **Project Size** - Because the size of the planned residential development site affects the extent to which the project can provide open space, large lot mix and other amenities offsetting increased densities allowed under this Section, a minimum project size shall be required for base districts in order to achieve increased residential densities. The minimum project size for a PRO District is 20 acres. Following are the requirements for PRO developments with various lot sizes:

- (A) Single-family detached residences on lots of not less than fifteen thousand (15,000) square feet shall conform to the following standards:

1. Area Regulations:

a.) Size of Lots:

- 1.) Minimum Lot Area - Fifteen thousand (15,000) square feet
- 2.) Minimum Lot Width - One hundred feet (100')
- 3.) Minimum Lot Depth - One hundred twenty-five feet (125')

b.) Size of Yards:

- 1.) Minimum Front Yard - Thirty-five feet (35')
- 2.) Minimum Side Yard - Ten percent (10%) of the lot width, but need not exceed twenty-five feet (25'); twenty-five feet (25') from a street right-of-way for a corner lot
- 3.) Minimum Rear Yard - Twenty-five feet (25') for the main building and any accessory building(s); ten feet (10') from a main building to an accessory building.

- (B) Single-family detached residences on lots of not less than ten thousand (10,000) square feet shall conform to the following standards:

1. Area Regulations:

a.) Size of Lots:

- 1.) Minimum Lot Area - Ten thousand (10,000) square feet
- 2.) Minimum Lot Width - Eighty feet (80')
- 3.) Minimum Lot Depth - One hundred ten feet (110')

b.) Size of Yards:

- 1.) Minimum Front Yard - Thirty feet (30')
- 2.) Minimum Side Yard - Ten percent (10%) of the lot width, but need not exceed twenty feet (20'); twenty feet (20') from a street right-of-way for a corner lot
- 3.) Minimum Rear Yard - Twenty-five feet (25') for the main building and any accessory building(s); ten feet (10') from a main building to an accessory building.

- (C) Single-family detached residences on smaller and more compact lots or parcels of land not less than seven thousand (7,000) square feet shall conform to the following standards:

1. Area Regulations:

a.) Size of Lots:

- 1.) Minimum Lot Area - Seven thousand (7,000) square feet
- 2.) Minimum Lot Width - Sixty-five feet (65')

- 3.) Minimum Lot Depth - One hundred feet (100')
- b.) Size of Yards:
 - 1.) Minimum Front Yard - Twenty-five feet (25')
 - 2.) Minimum Side Yard - Five feet (5'); fifteen feet (15') from a street right-of-way for a corner lot
 - 3.) Minimum Rear Yard - Twenty-five feet (25') for the main building and any accessory building(s); ten feet (10') from a main building to an accessory building.
- (D) Minimum lot size in the PRO District shall be seven thousand (7,000) square feet.
- (3) **Project Density** - The maximum number of dwelling units for a Planned Residential Overlay development shall not exceed a number calculated by multiplying the maximum residential density authorized in base zoning district by the number of gross acres in the project.
- (4) **Minimum Land Area Per Dwelling Unit:**
 - (A) For single-family detached dwellings, single-family attached dwellings, and patio homes, the minimum land area per dwelling unit shall be the minimum lot size. For other types of dwelling units allowed by these regulations, the minimum land area required shall be the average obtained by dividing the gross developable area for the project proposed to be occupied by such units by the number of units proposed.
 - (B) Minimum land area per dwelling unit shall be exclusive of all rights-of-way or easements for streets and alleys; land dedicated for public use; or open space and buffer areas, unless otherwise stated in these regulations.
 - (C) Where a mix of dwelling units is proposed, minimum land area per dwelling unit shall apply to each type of dwelling unit proposed.
- (5) **Lot Mix** - Construction of single-family detached or attached dwellings on a range of lot sizes smaller than the minimum lot size in the base district, together with correspondingly higher residential density may be allowed in a PRO District.
- (6) **Open Space Standards**
 - (A) **Public and Private Open Space** - A minimum of twenty percent (20%) of the gross land area within the entire PRO District shall be devoted to open space, consistent with the open space recommendations in the Village's Comprehensive Plan. Open space for PRO Districts may be satisfied by either public or a combination of public and private open space. Open space requirements specified in this subsection are in addition to requirements for site landscaping and buffering. Public open space shall be dedicated to the Village.

- (B) The Village may require dedication of proposed open space that is designated in the Park and Open Space Plan within the Village's Comprehensive Plan.
- (C) In computing minimum open space requirements, or open space proposed as an amenity, the following rules apply:
 - 1. Useable open space, as defined in Sec. 12.118(g), may be included.
 - 2. Proposed landscaping areas.
 - 3. Significant natural features, which will be preserved in their natural condition.
 - 4. Flood fringe areas, but not floodways or wetlands, may be included.
 - 5. Golf courses with at least 18 holes.
 - 6. Public parks dedicated in accordance with the Comprehensive Plan.
- (D) Allocation of open space shall be made to each phase of a planned residential development and to each residential development envelope within such phase, according to the minimum open space requirements established above. In the event that common open space is not to be provided proportionally by phase, the developer shall execute a reservation of common open space by grant of easement or covenant in favor of the Village authorizing the Village to dedicate all or a portion of such reserved area to common open space in the event that the development is not completed.

(7) Project Landscaping, Buffering, and Screening:

- (A) The standards contained in this Section are applicable to the design of planned residential developments, in order to minimize conflicts with existing and future adjacent uses and to maximize compatibility of dwelling unit types and lot sizes within the cluster option development. The perimeter of a Planned Residential Overlay development shall be buffered from adjacent property which is not part of the development using one of three basic methods: (1) screening; (2) a system of berms; or (3) use of natural vegetation. More than one option may be proposed for a project.
- (B) A landscape plan for the Planned Residential Overlay development shall be prepared by a registered landscape architect, landscape contractor or landscape designer and submitted for approval with the concept plan for the project. Plans and construction specifications for the berm or screening shall be approved by the Village engineer in accordance with procedures established by the Village. All screening wall plans and details must be sealed by a registered engineer.
- (C) Unless a different timing is approved by the Village in conjunction with the concept plan, construction of screening shall be completed prior to issuance of building permits.

- (D) All landscaping shall be selected from the plant list, as established in Section 12.132(l). The developer may propose substitution of other species of evergreen shrubs or trees to be used in the screening options. Any substitutions must be approved by the Village when the concept or development plan for the project is approved.
 - (E) The developer will be required to establish a permanent turf in the landscape area. Due to seasonal considerations, if a permanent turf cannot be established, the developer shall be required to stabilize the soil to prevent erosion.
 - (F) A permanent automatic irrigation system shall be installed by the developer in the landscape area. All irrigation shall be approved by the Village prior to installation. This system must be designed by a licensed irrigation designer.
 - (G) The developer will be required to install walkways in accordance with applicable provisions of the Village Code of Ordinances.
 - (H) Material colors for the screening wall shall be limited to earthtone colors, excluding green. The color shall be uniform for the entire length of the wall. When walls are built in sections, the colors shall be as closely similar as possible, but shall in no case be incompatible.
 - (I) All landscaping plants, trees, shrubs and ground cover shall be living and in sound, healthy, vigorous growing condition.
- (8) **Compatibility Standards** - The compatibility standards contained in these zoning regulations are applicable to planned residential development unless modified by provisions of this Section.

(f) **Special Requirements**

- (1) Recreational vehicles, travel trailers or motor homes may not be used for on-site dwelling purposes.
- (2) Electrical fencing and barbed wire is prohibited as perimeter fencing except for containment of farm animals on parcels of one (1) or more acres.
- (3) Open storage is prohibited, except for materials for the resident's personal use or consumption such as firewood and gardening materials.
- (4) Single-family homes with side entry garages where lot frontage is only to one street shall have a minimum of twenty five feet (25') from the door face of the garage or carport to the side property line for maneuvering.
- (5) Swimming pools shall be constructed and enclosed in accordance with the Village Building Code.

- (6) Site plan approval, as required by Sec. 12.111 shall be required for any non-residential use, including a school, church, child care center and private recreation facility in the SF-20 district. Any nonresidential land use which may be permitted in this district shall conform to the "R" - Retail District standards.
- (7) **Other Regulations** - As established in the Development Standards, Sec. 12.131 through Sec. 12.138.

(g) **Plans Required**

There are two types of plans that may be required as part of the development process within a PRO District. The procedures to be followed for the review and approval of each plan shall be as provided in Sec. 12.111 of this article. Approval of the concept plan shall occur along with the PRO zoning request. The general purpose and use of each plan is described as follows:

- (1) **PRO Concept Plan** - The PRO concept plan is mandatory, and is intended to be used as the first step in the PRO development process. It establishes general guidelines for the PRO District by identifying the proposed land uses and intensities, thoroughfare locations, and open space boundaries, including public trail systems. It also illustrates the integration of these elements into a master plan for the whole PRO District. The PRO concept plan, as incorporated in the PRO ordinance and together with the text of the ordinance, establishes the development standards for the PRO District.
- (2) **Site Plan** - A site plan is mandatory and is the final step of the development process for nonresidential and multi-family residential development. The purposes of a site plan are to assure that the development of individual building lots, parcels, or tracts within the PRO District are consistent with the approved concept plan and development plan, if any, and to assure that the standards applicable within the PRO District are met for each such lot, parcel or tract. The approval of a site plan shall be effective for a period of 183 calendar days beyond the date that the plan was approved by the Governing Body, unless extended, as provided in Sec. 12.111(k) of this article.

(h) **Compliance with Approved Plans**

Except as otherwise provided by the Village's Subdivision Regulations, no development shall begin and no building permit shall be issued for any land within a PRO District until a PRO site plan that is consistent with the PRO concept plan has been approved. Each PRO District shall be developed, used, and maintained in compliance with the approved PRO site plans for the district. Compliance with the PRO ordinance shall be construed as a condition precedent to granting of Certificates of Occupancy.

(i) **Establishment of District and Concept Plan.**

- (1) **Zoning Amendment** - The procedures for establishing a PRO District shall be as for any other type of zoning request, except that more information is typically needed along with the request, and a concept plan shall be submitted along with the request. An application for the establishment of a PRO District shall be submitted in accordance with Sec. 12.109(c) of this article. The application shall include: (1) a PRO concept plan ; (2) a list of proposed PRO District development standards; (3) identification of a zoning district, if any, which shall apply to the extent not otherwise provided by the PRO concept plan or by the proposed PRO District development standards; (4) an informational statement, and (5) traffic impact analysis, unless waived by the Governing Body. Except to the extent provided by the PRO concept plan and the PRO ordinance, development within the PRO District shall be governed by all of the ordinances, rules, and regulations of the Village in effect at the time of such development, including the standards of the zoning district identified in the application. In the event of any conflict between the PRO concept plan and the PRO ordinance and the then-current ordinances, rules, and regulations of the Village, the terms, provisions, and intent of the PRO concept plan and PRO ordinance shall control.
- (2) **PRO Concept Plan** - A concept plan shall be submitted along with a PRO zoning request, and shall be processed simultaneously with the PRO zoning request. The concept plan shall be reviewed by the Village's development review team, in accordance with Sec. 12.111 of this article. If the PRO zoning application is approved, the PRO concept plan shall be incorporated and made a part of the PRO ordinance.
- (3) **Proposed PRO Development Standards** - Proposed PRO District development standards shall be processed simultaneously with the PRO zoning application, and if the PRO zoning application is approved, such standards shall be incorporated as part of the PRO ordinance. Such proposed development standards may include, but shall not be limited to, uses; density; lot size; building size; lot dimensions; setbacks; coverage; height; landscaping; lighting; screening; fencing; parking and loading; signage; open space; drainage; and utility and street standards. Any graphic depictions used to illustrate such standards, unless otherwise provided in the PRO ordinance, shall be considered as regulatory standards. In the event of any conflict, the more stringent standards shall apply.
- (4) **Concept Plan Informational Statement** - A PRO concept plan shall be accompanied by an informational statement containing the information set forth below. If the PRO zoning application is approved, the informational statement shall not be binding on the applicant or the land owner, and shall not be considered part of the PRO concept plan or the PRO ordinance. Informational statements shall be updated concurrently with any amendment to the PRO concept plan. Each statement shall include the following:
 - (A) A general statement setting forth how the proposed PRO District will relate to the Village's Comprehensive Plan;
 - (B) The total acreage within the proposed PRO District;

- (C) If the development is to occur in phases, a conceptual phasing plan that identifies the currently anticipated general sequence of development, including the currently anticipated general sequence for installation of major capital improvements to serve the development; and
 - (D) An aerial photograph with the boundaries of the PRO concept plan clearly delineated.
- (5) **Traffic Impact Analysis** - The applicant shall submit to the Village engineer a traffic impact analysis, as provided in Division 2 of the Village Subdivision Ordinance, for the proposed PRO District. The analysis must be approved by the Governing Body prior to or concurrently with the approval by the Governing Body of the PRO District. The traffic analysis shall not be considered part of the PRO concept plan or the PRO ordinance, but may be used to condition the density or intensity of uses or the timing of development within the district based upon the existence of a supporting roadway network adequate to accommodate the traffic expected to be generated. The traffic impact analysis shall be updated with each PRO site plan.
- (6) **Official Submission Date and Completeness of Application** - Refer to Sec. 12.109(c) of this article.
- (7) **General Standards** - Based upon the concept plan, the Commission and Governing Body shall determine whether the PRO District should be established, taking into account the following criteria:
- (A) Whether the planned residential development is consistent with the Future Land Use Plan and furthers the goals and policies of the Comprehensive Plan;
 - (B) Whether the project design and proposed amenities mitigate the impacts of residential densities greater than that of the base zoning district;
 - (C) Whether the proposed uses and project design are compatible with existing and planned adjoining uses and the character of the neighborhood in which the project is located;
 - (D) Whether adequate public facilities will be provided in a timely manner to support each phase of the development;
 - (E) Whether the planned residential development meets the minimum performance and development standards set forth in the base zoning district;
 - (F) Whether the overall design of the planned residential development preserves or provides significant natural or improved open space; and
 - (G) Where increased densities are requested, and are authorized, whether the amenities proposed are in accordance with the Comprehensive Plan and benefit the community as a whole, in addition to the residents of the planned residential

development.

(j) Project Design:

It is the intent of these regulations to encourage outstanding project design for planned residential developments in order to implement the policies contained in the Village's Comprehensive Plan. The Village recognizes that project design is an important and variable element in implementing Comprehensive Plan policies relating to planned residential developments and overall community objectives. The extent to which maximum residential densities can be achieved may depend upon project design. The following standards will be used to evaluate project design:

- (1) The arrangement of all uses and improvements should reflect the natural capabilities and limitations of the site as well as the characteristics and limitations of adjacent property.
- (2) Development must be compatible with the immediate environment of the site and neighborhood relative to architectural design; scale, bulk and building height; historical character; and disposition and orientation of buildings on the lot.
- (3) Buildings, transportation improvements, and open space areas, must be arranged on the site so that activities are compatible with the neighborhood.
- (4) Buildings, transportation improvements, open space, and landscaping, must be designed and arranged to produce an efficient, functionally organized, and cohesive development.
- (5) Buildings, transportation improvements, open space and landscaping, must be in favorable relationship to the existing natural topography, natural vegetation and creeks, exposure to sunlight and wind, and long or scenic views.
- (6) Buildings, transportation improvements, open space and landscaping, must be designed and arranged to maximize the opportunity for privacy by the residents of the project and surrounding areas.
- (7) Projects should create residential neighborhoods with street layouts that respond to the natural topography of the site. Residential neighborhoods should be laid out with a combination of long and straight road segments working with the natural systems of the site. Curvilinear streets must be used to enhance overall project design.
- (8) The project should preserve and enhance the natural character of the site, and should be designed to reflect the existing topography and natural systems. Vegetative communities located in floodplains, existing tree stands and along steep slopes should be maintained as open areas and wildlife habitat. Creeks and streams should be preserved and enhanced as amenities.
- (9) The project should preserve historic elements of the site, including features such as farm structures and dwellings, stone wells, entry features, windmills, or other features that illustrate the historic resources of the site.

- (10) The project should be integrated with the Village's open space network as described in the Parks and Open Space Plan of the Comprehensive Plan, including provision of a trail that would connect to the overall trail system of the Village. Public or common uses and open space should be connected together to promote pedestrian usage. Utilization of open space should be enhanced through provision of amenities.

(k) **Alternative Proposal and Variation from Requirements:**

The performance standards for planned residential development contained in this Section are considered to be the minimum standards necessary for approval of planned residential projects. It is recognized, however, that project size, location and design may necessitate a different arrangement or distribution of land uses, open space or buffers than are envisioned in these regulations. Consequently, an applicant for a planned residential development may submit an alternative proposal with corresponding variations in the standards applicable to such a development, which alternative shall be evaluated and action taken thereon in accordance with the procedures in this Section; provided, however, that the following limitations apply:

- (1) No variations will be granted from the maximum residential densities for planned residential developments set forth in the base zoning district regulations.
- (2) The alternative proposal and variations requested in writing shall achieve the same basic objectives as the particular standards which are to be varied.
- (3) Where the proposal seeks to vary project size limitations, the alternative design shall be evaluated in accordance with standards applicable to larger projects

(l) **Pro Site Plans**

Site plan review and approval for any building site within a PRO District shall be in accordance with Sec. 12.111 of this article.

(m) **Amendment of Plans**

- (1) **Amendment of PRO District** - The property owner may propose amendment of the PRO District regulations. The written request shall be processed as a zoning amendment in accordance with the procedures of Sec. 12.109 of this article.
- (2) **PRO Concept Plans** - PRO concept plans, excluding informational statements, are considered part of the PRO ordinance. Any amendment to a PRO concept plan shall be considered a zoning change, and shall be processed pursuant to Sec. 12.109 of this article.
- (3) **PRO Site Plans** - PRO site plans are not considered part of a PRO ordinance. Except as otherwise provided in this subsection, any amendment/revision to an approved PRO site plan shall be in accordance with Sec. 12.111 of this article.

- (n) **Lapse of Concept Plan or Site Plan Approval** - Lapse of a concept plan or site plan shall be in accordance with Section 12.111(j) of this article.
- (o) **Extension And Reinstatement Procedure** - Extension of a concept plan or site plan shall be in accordance with Sec. 12.111(k) of this article.

Sec. 12.129 CUP – Conditional Use Permit

(a) Purpose and Intent:

- (1) **Nature of Conditional Use** - A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving Conditional Use Permit (CUP) applications.
- (2) **Permit Required** - No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within a zoning district until a conditional use permit is issued in accordance with the provisions of this Section. An application for a conditional use permit shall be accompanied by a site plan prepared in the manner described in Sec. 12.111. The site plan shall illustrate the proposed use to be established, its relationship to adjoining properties, and how it meets the approval standards set forth in Sec. 12.129(e).

(b) Status of Conditionally Permitted Uses:

The following general rules apply to all conditional uses:

- (1) The designation of a use in a zoning district as a conditional use does not constitute an authorization or assurance that such use will be approved.
- (2) Approval of a conditional use permit shall authorize only the particular use for which the CUP is issued.
- (3) No use authorized by a conditional use permit shall be enlarged, extended or relocated, nor may the number of dwelling units be increased, unless an application is made for approval of a new conditional use permit in accordance with the procedures set forth in this Section.
- (4) Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by these zoning regulations, the Village Code of Ordinances, or any permits required by regional, State and Federal agencies.

(c) **Application for Conditional Use Permit:**

- (1) **Application Requirements** - An application for a conditional use permit may be submitted by the property owner or by the property owner's designated representative to the Village. The application shall be accompanied by a site plan prepared in accordance with the requirements of Sec. 12.111. If a zoning amendment is required or requested in writing, such application shall accompany the application for a conditional use permit.
- (2) **Subdivision Approval** - If the proposed use requires a division of land, an application for subdivision approval shall be submitted in conjunction with the application for a conditional use permit. Approval of the conditional use permit shall not become effective until final approval of the subdivision application; provided, that if the land is to be divided in phases, the approval of the conditional use permit shall take effect upon final approval of the phase of the subdivision containing the property on which the conditional use is to be located.

(d) **Procedures for Conditional Use Permits:**

- (1) **Commission Recommendation** - Upon receipt of the recommendation from the Village Administrator, the Commission shall conduct a public hearing in order to formulate its recommendations to the Governing Body on the conditional use permit application. Following the public hearing, the Commission shall recommend approval, approval subject to modification, or denial of the proposal to the Governing Body in accordance with Sec. 12.109. If the appropriateness of the use cannot be assured at the location, the Commission shall recommend denial of the application as being incompatible with existing uses or with other uses permitted by right in the district.
- (2) **Board Action** - The Governing Body shall be the final decision-maker on applications for conditional use permits. Following a public hearing and in consideration of the Commission's recommendations, the Governing Body shall approve, modify or deny the proposal for a conditional use permit in accordance with Sec. 12.109. If the appropriateness of the use cannot be assured at the location, the application for conditional use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.

(e) **Standards:**

- (1) **Factors for Consideration** - When considering applications for a conditional use permit, the Commission in making its recommendation and the Governing Body in rendering its decision on the application shall, on the basis of the site plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Commission and the Governing Body shall specifically consider the extent to which:
 - (A) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;

- (B) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- (C) The proposed use meets all supplemental standards specifically applicable to the use as established in the Development Standards, Sec. 12.131 through Sec. 12.138;
- (D) The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:
 - 1. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
 - 2. Off-street parking areas, loading areas, and pavement type;
 - 3. Refuse and service areas;
 - 4. Utilities with reference to location, availability, and compatibility;
 - 5. Screening and buffering, features to minimize visual impacts, and/or setbacks from adjacent uses;
 - 6. Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - 7. Required yards and open space;
 - 8. Height and bulk of structures;
 - 9. Hours of operation;
 - 10. Exterior construction material, building design, and building facade treatment;
 - 11. Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets;
 - 12. Provision for pedestrian access, amenities and areas; and,
- (E) The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

(2) **Conditions** - In approving the application, the Commission may recommend and the Governing Body shall impose such conditions as are reasonably necessary to assure compliance with these standards and the purpose and intent of this Section, in accordance with the procedures in Sec. 12.109. Any conditions imposed shall be set forth in the ordinance approving the conditional use, and shall be incorporated into or noted on the site plan for final approval. The Village Administrator shall verify that the site plan incorporates all conditions set forth in the ordinance authorizing the conditional use, and shall sign the plan to indicate final approval. The Village shall maintain a record of such approved conditional uses and the site plans and conditions attached thereto.

(3) **Prohibition on Waivers and Variances** - The foregoing standards of development shall not be subject to variances that otherwise could be granted by the Zoning Board of Adjustments, nor may conditions imposed by the Governing Body subsequently be waived or varied by the Zoning Board of Adjustments. In conformity with the authority of the Governing Body to authorize conditional uses, the Governing Body may waive or modify specific standards otherwise made applicable to the use by this article, to secure the general objectives of this Section; provided, however, that the Governing Body shall not waive or modify any approval factor set forth in Subsection (e)(1) of this Section.

(f) **Expiration and Extension:**

Termination of approval of a conditional use for failure to commence development and extension of the time for performance for a conditional use permit shall be governed by Section 12.111(j) and Section 12.111(k).

(g) **Amendment:**

No proposed or existing building, premise or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the conditional use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this Section, and the conditional use permit and approved site plan are amended accordingly.

(h) **Other Regulations:**

The Zoning Board of Adjustments shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any conditional use permit.

(i) **Use Regulations:**

Uses allowed by CUP are specified in Sec. 12.130 (Use Charts).

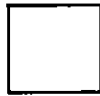
Division 3 - Use Regulations

Sec. 12.130 Use Regulations (Charts)

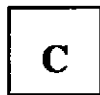
- (a) (1) The use of land or buildings shall be in accordance with those listed in the following Use Charts. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located. The legend for interpreting the permitted uses in the Use Charts is:



Designates use permitted in the zoning district indicated.



Designates use prohibited in the zoning district indicated.



Designates use may be permitted in the zoning district indicated by Conditional Use Permit.

See Definitions in Sec. 12.139 of this article for further description of uses.

- (2) If a use is not listed in the Use Charts, it is not allowed in any zoning district (see subsection 4 below).
- (3) **Use Chart Organization** - The following use categories are listed in the Use Charts:
- (A) Agricultural Uses
 - (B) Residential Uses
 - (C) Office Uses
 - (D) Personal and Business Service Uses
 - (E) Retail Uses
 - (F) Transportation and Auto Service Uses
 - (G) Amusement and Recreational Service Uses
 - (H) Institutional and Governmental Uses
 - (I) Commercial and Wholesale Trade Uses
 - (J) Manufacturing, Industrial and Construction Uses
- (4) **Classification of New and Unlisted Uses** - It is recognized that new types of land use will develop, and forms of land use not presently anticipated may seek to locate in the Village. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use in the Use Charts shall be made as follows:

(A) Initiation:

1. A person, Village department, the Commission, or the Governing Body may propose zoning amendments to regulate new and previously unlisted uses.
 2. A person requesting the addition of a new or unlisted use, in writing, shall submit to the Village Administrator, or his or her designee, all information necessary for the classification of the use, including but not limited to:
 - a. The nature of the use and whether the use involves dwelling activity, sales, services, or processing;
 - b. The type of product sold or produced under the use;
 - c. Whether the use has enclosed or open storage and the amount and nature of the storage;
 - d. Anticipated employment typically anticipated with the use;
 - e. Transportation requirements;
 - f. The nature and time of occupancy and operation of the premises;
 - g. The off-street parking and loading requirements;
 - h. The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated; and
 - i. The requirements for public utilities such as sanitary sewer and water and any special public services that may be required.
- (B)** The Village Administrator, shall refer the question concerning any new or unlisted use to the Commission requesting a recommendation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by the statement of facts in subsection (A)2 above. An amendment to this article shall be required as prescribed by Sec. 12.109.
- (C)** The Commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use is most similar and should be permitted.
- (D)** The Commission shall transmit its findings and recommendations to the Governing Body as to the classification proposed for any new or unlisted use. The Governing Body shall approve or disapprove the recommendation of the Commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be

amended in the use charts of this article according to Sec. 12.109.

- (E) Standards for new and unlisted uses may be interpreted by the Village Administrator as those of a similar use. When a determination of the appropriate zoning district cannot be readily ascertained, the same criteria outlined above shall be followed for determination of the appropriate district. The decision of the Village Administrator may be appealed according to the process outlined in subsections (B) through (D) above.

THE USE CHARTS FOLLOW

USE CHARTS

| Permitted Uses | Residential Districts | | | | | | Nonresidential Districts | | | | | | | |
|--|-----------------------|-------|-------|-------|-----|------|--------------------------|----|---|----|---|----|---|----|
| AGRICULTURE | A | SF-RR | SF-20 | SF-PH | SFA | MF-1 | O | NS | R | TC | C | MU | P | DR |
| Bulk Grain and/or Feed Storage | P | | | | | | | | | | P | | | |
| Farms, General (Crops) | P | P | C | C | C | C | C | C | C | C | C | C | C | C |
| Farms, General (Livestock/Ranch) | P | P | C | C | C | C | C | C | C | C | C | C | C | C |
| Greenhouse (Non-Retail/Hobby) | P | P | P | | | | | | | | P | P | | |
| Hay, Grain, and/or Feed Sales | P | | | | | | | | | | P | | | |
| Livestock Sales | P | | | | | | | | | | | | | |
| Orchard/Crop Propagation | P | P | C | C | C | C | C | C | C | C | C | C | C | C |
| Plant Nursery (Growing for commercial purposes) | P | | | | | | | | | | P | | | C |
| Stables (As A Business) | P | C | | | | | | | | | P | | | C |
| Stables (Private, Accessory Use) | P | P | C | | | | | | | | | | | C |
| Stables (Private, Principal Use) | P | C | | | | | | | | | | | | C |
| RESIDENTIAL | | | | | | | | | | | | | | |
| Accessory Building/Structure (Residential) | P | P | P | P | P | P | | | | | | | | |
| Accessory Building/Structure (Non-residential) | | | | | | | P | P | P | P | P | P | | |
| Accessory Dwelling | P | P | C | | | | | | | | | | | |
| Caretaker's/Guard's Residence | P | P | P | | C | C | C | C | C | C | C | C | | C |
| Community Home | P | P | P | P | P | P | | | | | | | | |
| Duplex / Two-Family | | | | | | | | | | | | C | | |
| Family Home Adult Care | P | P | P | P | P | P | | | | | | | | |
| Family Home Child Care | P | P | P | P | P | P | | | | | | | | |
| Four Family (Quadraplex) | | | | | | C | | | | P | | C | | |
| Garage Conversion (See Definitions) | | | | C | C | | | | | | | | | |
| Home Occupation | P | P | P | P | P | P | | | | P | | P | | |
| Multi-Family (Apartments) | | | | | | P | | | | C | | C | | |
| Private Street Subdivision | C | C | C | C | C | C | | | | C | | C | | |
| Rooming/Boarding House | | | | | | P | | | | | | | | |
| Single Family Detached | P | P | P | P | P | P | | | | | | C | | |
| HUD code-Manufactured Home | | | | | | | | | | | | | | |
| P - Designates use permitted in District indicated - Designates use prohibited in District indicated C - Designates use may be approved as Conditional Use | | | | | | | | | | | | | | |

| Permitted Uses | Residential Districts | | | | | | Nonresidential Districts | | | | | | | |
|--|-----------------------|-------|-------|-------|-----|------|--------------------------|----|---|----|---|----|---|----|
| RESIDENTIAL | A | SF-RR | SF-20 | SF-PH | SFA | MF-1 | O | NS | R | TC | C | MU | P | DR |
| Single Family Industrialized Home | P | P | P | P | P | P | | | | | | | | |
| Single Family Townhouse (Attached) | | | | | P | P | | | | P | | P | | |
| Single Family Zero Lot Line / Patio Homes | | | | P | P | | | | | P | | P | | |
| Swimming Pool (Private) | P | P | P | P | P | P | | | | P | | P | | |
| Three Family (Triplex) | | | | | | P | | | | | C | C | | |
| OFFICE | | | | | | | | | | | | | | |
| Armed Services Recruiting Center | | | | | | | P | P | P | P | P | P | | |
| Check Cashing Service | | | | | | | C | C | C | C | C | C | | |
| Credit Agency | | | | | | | P | P | P | P | P | P | | |
| Insurance Agency Offices | | | | | | | P | P | P | P | P | P | | |
| Offices (Brokerage Services) | | | | | | | P | P | P | P | P | P | | |
| Offices (Health Services) | | | | | | | P | P | P | P | P | P | | |
| Offices (Legal Services) | | | | | | | P | P | P | P | P | P | | |
| Offices (Medical Office) | | | | | | | P | P | P | P | P | P | | |
| Offices (Professional) | | | | | | | P | P | P | P | P | P | | |
| Offices (Parole-Probation) | | | | | | | P | P | P | P | P | P | | |
| Real Estate Offices | | | | | | | P | P | P | P | P | P | | |
| Telemarketing Agency | | | | | | | C | C | C | C | C | C | | |
| Bank | | | | | | | P | C | P | P | P | P | | |
| Savings and Loan | | | | | | | P | C | P | P | P | P | | |
| Security Monitoring Company (No Outside Storage) | | | | | | | P | C | P | C | P | P | | |
| | | | | | | | | | | | | | | |
| PERSONAL AND BUSINESS SERVICES | | | | | | | | | | | | | | |
| Appliance Repair | | | | | | | | C | P | | P | P | | |
| Artist Studio | | | | | | | P | P | P | P | P | P | | |
| Ambulance Service (Private) | | | | | | | | | | | C | | | |
| Automobile Driving School | | | | | | | C | C | P | C | P | P | | |
| Automatic Teller Machines (ATM's) | | | | | | | P | P | P | P | P | P | | |
| | | | | | | | | | | | | | | |
| P - Designates use permitted in District indicated - Designates use prohibited in District indicated C - Designates use may be approved as Conditional Use | | | | | | | | | | | | | | |

| Permitted Uses | Residential Districts | | | | | | Nonresidential Districts | | | | | | | |
|--|-----------------------|-------|-------|-------|-----|------|--------------------------|----|---|----|---|----|---|----|
| PERSONAL AND BUSINESS SERVICES | A | SF-RR | SF-20 | SF-PH | SFA | MF-1 | O | NS | R | TC | C | MU | P | DR |
| Barber Shop (Non-College) | | | | | | | P | P | P | P | P | P | | |
| Beauty Shop (Non-College) | | | | | | | P | P | P | P | P | P | | |
| Bed & Breakfast Inn | C | C | C | C | C | C | P | P | P | P | P | P | | |
| Communication Equipment (Installation and/or Repair – No outdoor sales or storage) | | | | | | | | | | | P | P | | |
| Computer Sales | | | | | | | C | P | P | P | P | P | | |
| Credit Unions | | | | | | | P | C | P | P | P | P | | |
| Dance/Drama/Music Schools (Performing Arts) | | | | | | | P | P | P | P | P | P | | |
| Extended Stay Hotels / Motels (Residence hotels) | | | | | | | C | | C | C | P | C | | |
| Exterminator Service (No outdoor sales or storage) | | | | | | | | | | | C | | | |
| Financial Services (Advice/Invest) | | | | | | | P | P | P | P | P | P | | |
| Funeral Home | | | | | | | | | | | P | C | | |
| Hotel/Motel | | | | | | | | | C | P | P | P | | |
| Martial Arts School | | | | | | | P | P | P | P | P | P | | |
| Kiosk (Providing A Service) | | | | | | | C | C | C | C | C | C | | |
| Laundry/Dry Cleaning (Drop Off/Pick Up) | | | | | | | C | P | P | P | P | P | | |
| Locksmith | | | | | | | C | P | P | C | P | P | | |
| Mini-Warehouse/Self Storage | | | | | | | | | | | C | | | |
| Photo Studio | | | | | | | P | P | P | P | P | P | | |
| Photocopying/Duplicating | | | | | | | P | P | P | P | P | P | | |
| Security Quarters as Associated with a Business (Live-In) | | | | | | | C | C | C | C | C | C | | |
| Sexually Oriented Business | | | | | | | | | | | C | | | |
| Shoe Repair | | | | | | | P | P | P | P | P | P | | |
| Studio for Radio or Television (without tower) | | | | | | | P | P | P | P | P | P | | |
| Tailor Shop | | | | | | | P | P | P | P | P | P | | |
| Tool Rental (Indoor Storage) | | | | | | | | | | | C | | | |
| Tool Rental (Outdoor Storage) | | | | | | | | | | | C | | | |
| Travel Agency | | | | | | | P | P | P | P | P | P | | |
| P - Designates use permitted in District indicated - Designates use prohibited in District indicated C - Designates use may be approved as Conditional Use | | | | | | | | | | | | | | |

| Permitted Uses | Residential Districts | | | | | | Nonresidential Districts | | | | | | | |
|--|-----------------------|-------|-------|-------|-----|------|--------------------------|----|---|----|---|----|---|----|
| RETAIL | A | SF-RR | SF-20 | SF-PH | SFA | MF-1 | O | NS | R | TC | C | MU | P | DR |
| Alcoholic Beverage Retail Sales | | | | | | | | C | P | P | | | | |
| All Terrain Vehicle (go-carts) Dealer / Sales Only | | | | | | | | | C | | P | | | |
| Art Dealer / Gallery | | | | | | | P | P | P | P | P | P | | |
| Auto Dealer (Primarily New/Used) | | | | | | | | | C | | C | | | |
| Auto Supply Store for New & Rebuilt Parts | | | | | | | | | P | | P | | | |
| Bakery (Retail) | | | | | | | C | P | P | P | P | P | | |
| Bike Sales and/or Repair | | | | | | | | P | P | C | P | P | | |
| Book Store | | | | | | | C | P | P | P | P | P | | |
| Building Material Sales | | | | | | | | | C | | P | C | | |
| Cabinet Shop (Manufacturing) | | | | | | | | | | | C | | | |
| Cafeteria | | | | | | | C | C | P | P | P | P | | |
| Confectionery Store (Retail) | | | | | | | C | C | P | P | P | P | | |
| Consignment Shop | | | | | | | C | C | P | P | P | P | | |
| Convenience Store without gas sales | | | | | | | | C | P | P | P | P | | |
| Department Store | | | | | | | | | P | C | P | | | |
| Drapery Shop / Blind Shop | | | | | | | | | C | | P | | | |
| Florist | | | | | | | C | P | P | P | P | P | | |
| Food or Grocery Store | | | | | | | | C | P | C | P | C | | |
| Furniture Sales (Indoor) | | | | | | | | C | P | P | P | P | | |
| Garden Shop (Inside Storage) | | | | | | | | C | P | C | P | P | | |
| Gravestone/Tombstone Sales | | | | | | | | | | | P | | | |
| Handicraft Shop | | | | | | | | P | P | P | P | P | | |
| Hardware Store | | | | | | | | P | P | P | P | P | | |
| Home Improvement Center | | | | | | | | | C | C | P | | | |
| Lawnmower Sales and/or Repair | | | | | | | | | C | | P | | | |
| Major Appliance Sales (Indoor) | | | | | | | | | P | P | P | P | | |
| Market (Public) | | | | | | | | | | C | P | C | | |
| Motorcycle Dealer (Primarily New / Repair) | | | | | | | | | C | | P | | | |
| Personal Watercraft Sales (Primarily New/Repair) | | | | | | | | | C | | P | | | |
| Needlework Shop | | | | | | | | P | P | P | P | P | | |
| Pet Shop / Supplies | | | | | | | | | P | P | P | P | | |
| Pharmacy | | | | | | | C | C | P | C | P | P | | |
| Plant Nursery (Retail Sales / outdoors) | | | | | | | C | C | P | C | P | P | | |
| P - Designates use permitted in District indicated - Designates use prohibited in District indicated C - Designates use may be approved as Conditional Use | | | | | | | | | | | | | | |

| Permitted Uses | Residential Districts | | | | | | Nonresidential Districts | | | | | | | |
|--|-----------------------|-------|-------|-------|-----|------|--------------------------|----|---|----|---|----|---|----|
| RETAIL | A | SF-RR | SF-20 | SF-PH | SFA | MF-1 | O | NS | R | TC | C | MU | P | DR |
| Recycling Kiosk | | | | | | | C | C | C | C | P | C | | |
| Restaurant | | | | | | | C | C | P | P | P | P | | |
| Restaurant (Drive-In) | | | | | | | C | C | C | C | P | P | | |
| Retail Store (Misc.) | | | | | | | | C | P | C | P | P | | |
| Security Systems Installation Company | | | | | | | | C | C | | P | C | | |
| Studio Tattoo or Body Piercing | | | | | | | | | | | C | | | |
| Temporary Outdoor Retail Sales / Commercial Promotion | | | | | | | | C | C | C | C | C | | |
| Upholstery Shop (Non-Auto) | | | | | | | | | | | C | | | |
| Used merchandise; Furniture, Antique Shop Store | | | | | | | | C | C | C | P | C | | |
| Vacuum Cleaner Sales and Repair | | | | | | | | C | P | C | P | C | | |
| Veterinarian (Indoor Kennels) | | | | | | | | C | P | C | P | P | | |
| Woodworking Shop (Ornamental) | | | | | | | | | P | C | P | | | |
| | | | | | | | | | | | | | | |
| TRANSPORTATION AND AUTO SERVICES | | | | | | | | | | | | | | |
| Auto Body Repair | | | | | | | | | | | C | | | |
| Auto Financing & Leasing (Indoor) | | | | | | | C | P | P | C | P | P | | |
| Auto Glass Repair/Tinting | | | | | | | | | | | C | | | |
| Auto Interior Shop / Upholstery | | | | | | | | | | | C | | | |
| Auto Muffler Shop | | | | | | | | | | | C | | | |
| Auto Paint Shop | | | | | | | | | | | C | | | |
| Auto Repair (General) | | | | | | | | | C | | C | | | |
| Auto Repair as an Associated Use to Retail Sales | | | | | | | | | C | | C | | | |
| Auto Tire Repair /Sales (Indoor) | | | | | | | | | C | | C | | | |
| Auto Wrecker Service | | | | | | | | | | | C | | | |
| Car Wash (Self Service) | | | | | | | | | C | | P | | | |
| Full Service Car Wash (Detail Shop) | | | | | | | | C | P | C | P | P | | |
| Limousine / Taxi Service | | | | | | | | | | | C | | | |
| Public Garage / Parking Structure | | | | | | | C | | C | C | P | C | | |
| Quick Lube/Oil Change/Minor Inspection | | | | | | | | | P | C | P | C | | |
| Tire Sales (Outdoors) | | | | | | | | | | | C | | | |
| | | | | | | | | | | | | | | |
| P - Designates use permitted in District indicated - Designates use prohibited in District indicated C - Designates use may be approved as Conditional Use | | | | | | | | | | | | | | |

| Permitted Uses | Residential Districts | | | | | | Nonresidential Districts | | | | | | | |
|--|-----------------------|-------|-------|-------|-----|------|--------------------------|----|---|----|---|----|---|----|
| | A | SF-RR | SF-20 | SF-PH | SFA | MF-1 | O | NS | R | TC | C | MU | P | DR |
| AMUSEMENT & RECREATION SERVICE | | | | | | | | | | | | | | |
| Amusement Devices/Arcade (Four or More Devices) | | | | | | | | | C | C | P | C | | |
| Amusement Services (Indoors) | | | | | | | | | C | C | P | C | | |
| Amusement Services (Outdoors) | | | | | | | | | | C | C | C | | |
| Billiard / Pool Facility (Three or More Tables) | | | | | | | | | C | | C | | | |
| Bingo Facility | | | | | | | | | C | | C | | | |
| Bowling Center | | | | | | | | | C | | C | | | |
| Broadcast Station (with Tower) | C | | | | | | | | | | C | C | | |
| Country Club (Private) | C | C | C | C | C | C | C | C | C | | | | | C |
| Dance Hall / Dancing Facility | | | | | | | | | C | C | P | C | | |
| Day Camp | C | | | | | | C | C | C | C | C | C | | C |
| Dinner Theatre | | | | | | | C | C | P | P | P | P | | |
| Driving Range | C | | | | | | | | | | P | C | | C |
| Earth Satellite Dish (Private, less than 3' in diameter) | P | P | P | P | P | P | P | P | P | P | P | P | | P |
| Exhibition Hall | | | | | | | | | C | C | | | | |
| Fair Ground | C | | | | | | | | | | | | | C |
| Golf Course (Miniature) | | | | | | | | | | | C | | | |
| Golf Course (Public/Private) | C | C | C | C | C | C | C | C | C | C | C | C | | C |
| Health Club (Physical Fitness) | | | | | | | C | C | P | P | P | P | | |
| Membership Sports | | | | | | | C | C | P | P | P | P | | |
| Motion Picture Theater (Indoors) | | | | | | | | | C | P | P | P | | |
| Motion Picture Studio, Commercial Film | | | | | | | | | C | C | P | C | | |
| Museum | | | | | | | C | C | P | P | P | P | | |
| Park and/or Playground | P | P | P | P | P | P | P | P | P | P | P | P | | P |
| Travel Trailers / R.V.'s (Short Term Stays) | C | | | | | | | | | | C | | | C |
| Rodeo grounds | C | | | | | | | | | | | | | |
| Skating Rink | | | | | | | | | | | C | | | |
| Swimming Pool (Public / Private) | P | P | P | P | P | P | P | P | P | P | P | P | | P |
| Tennis Court (Lighted) | C | C | C | P | P | P | C | C | C | C | C | C | | C |
| Tennis Court (Private / Not Lighted) | P | P | P | P | P | P | P | P | P | P | P | P | | P |
| Theater (Non-Motion Picture) | | | | | | | C | C | C | P | P | P | | |
| Video Rental / Sales | | | | | | | | P | P | P | P | P | | |
| | | | | | | | | | | | | | | |
| P - Designates use permitted in District indicated - Designates use prohibited in District indicated C - Designates use may be approved as Conditional Use | | | | | | | | | | | | | | |

| Permitted Uses | Residential Districts | | | | | | Nonresidential Districts | | | | | | | |
|--|-----------------------|-------|-------|-------|-----|------|--------------------------|----|---|----|---|----|---|----|
| INSTITUTIONAL / GOVERNMENTAL | A | SF-RR | SF-20 | SF-PH | SFA | MF-1 | O | NS | R | TC | C | MU | P | DR |
| Antenna (Non-Commercial) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Antenna (Commercial) | SEE SECTION 31.4 | | | | | | | | | | | | | |
| Assisted Living Facility | | | | | | C | | C | C | C | P | C | | |
| Broadcast Towers (Commercial) | SEE SECTION 31.4 | | | | | | | | | | | | | |
| Cellular Communications Tower / PCS | SEE SECTION 31.4 | | | | | | | | | | | | | |
| Cemetery and/or Mausoleum | C | C | C | C | C | C | C | C | C | C | C | C | P | C |
| Child Day Care (Business) | | | | | | | C | C | P | C | P | P | | |
| Church/Place of Worship | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Civic Club | | | | | | | P | P | P | P | P | P | P | |
| Clinic (Medical) | | | | | | | P | P | P | P | P | P | | |
| Community Center (Municipal) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Electrical Generating Plant | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| Electrical Substation | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| Electrical Transmission Line | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| Emergency Care Clinic | | | | | | | P | P | P | P | P | P | | |
| Fire Station | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Franchised Private Utility (not listed) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Fraternal Organization | | | | | | | P | C | P | | P | P | C | |
| Gas Transmission Line (Regulating Station) | C | C | C | C | C | C | C | C | C | C | C | C | C | C |
| Governmental Building (Municipal, State or Federal) | | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Group Day Care Home | | | | | | P | | C | | | P | P | | |
| Heliport | | | | | | | | | | | C | C | C | C |
| Helistop | | | | | | | | | | C | C | C | C | C |
| Hospice | | | | | | | | | C | C | P | P | | |
| Hospital (Acute care / Chronic Care) | | | | | | | C | | C | C | P | P | | |
| Library (Public) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Mailing Service (Private) | | | | | | | P | P | P | P | P | P | P | P |
| Maternity Homes | | | | | | C | | | | | | C | | |
| Non-Profit Activities by Church | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Nursing/Convalescent Home | | | | | | P | C | C | P | | P | P | | |
| Orphanage | | | | | | C | | | | | | | | |
| Philanthropic organization | | | | | | | C | C | C | C | P | C | C | |
| P - Designates use permitted in District indicated - Designates use prohibited in District indicated C - Designates use may be approved as Conditional Use | | | | | | | | | | | | | | |

| Permitted Uses | Residential Districts | | | | | | Nonresidential Districts | | | | | | | |
|--|-----------------------|-------|-------|-------|-----|------|--------------------------|----|---|----|---|----|---|----|
| INSTITUTIONAL / GOVERNMENTAL | A | SF-RR | SF-20 | SF-PH | SFA | MF-1 | O | NS | R | TC | C | MU | P | DR |
| Phone Exchange/Switching Station | | | | | | | C | | C | C | P | P | P | P |
| Police Station | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Post Office (Governmental) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Radio/Television Tower (Commercial) | | | | | | | C | C | C | C | C | C | C | C |
| Rectory/Parsonage | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Retirement Home/Home for the Aged | | | | | | P | | | | | | P | | |
| School, Driving/Defensive Driving | | | | | | | | C | P | | P | P | | |
| School, K through 12 (Private) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| School, K through 12 (Public) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| School, Vocational (Business/Commercial Trade) | | | | | | | | | P | C | P | P | | |
| Sewage Pumping Station | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Utility Distribution Line | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Wastewater Treatment Plant (Public) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Water Supply Facility (Private) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Water Supply Facility (Elevated Water Storage) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Water Treatment Plant (Public) | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| | | | | | | | | | | | | | | |
| COMMERCIAL AND WHOLESALE TRADE | | | | | | | | | | | | | | |
| Book Binding | | | | | | | | | | | P | | | |
| Feed & Grain Store | C | | | | | | | | C | | P | | | |
| Furniture Manufacture | | | | | | | | | | | C | | | |
| Heating & Air-conditioning Sales / Services | | | | | | | | | C | | P | | | |
| Livestock – Wholesale | C | | | | | | | | | | C | | | |
| Pawn Shop | | | | | | | | | | | P | | | |
| Propane Sales (Retail) | | | | | | | | | | | P | | | |
| Taxidermist | C | | | | | | | | | | P | | | |
| Transfer Station (Refuse/Pick-up) | | | | | | | | | | | C | | | |
| Veterinarian (Outdoor Kennels or Pens) | C | | | | | | | | | | | | | |
| Warehouse / Office | | | | | | | | | | | P | | | |
| Welding Shop | | | | | | | | | | | C | | | |
| P - Designates use permitted in District indicated - Designates use prohibited in District indicated C - Designates use may be approved as Conditional Use | | | | | | | | | | | | | | |

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(b) Accessory Buildings and Use Regulations

- (1) In a single-family or multi-family district, an accessory building is a subordinate or incidental building, attached to or detached from the main building, not used for commercial purposes and not rented. Accessory buildings shall be located toward the rear portion of the property.
- (2) In nonresidential districts, an accessory building is a subordinate building, the use of which is secondary to and supportive of the main building. Accessory buildings shall not be permitted without a main building or primary use being in existence. Accessory buildings should, wherever possible, be located toward the rear portion of the property, and shall be constructed of the same material and architectural design as that of the main building.
- (3) Accessory dwelling units in the "A" or "SF-RR" Districts shall be allowed as an incidental residential use of a building on the same lot as the main dwelling unit and used by the same person or persons of the immediate family, and shall meet the following standards:

 - (A) The accessory dwelling unit must be constructed to the rear of the main dwelling, separate from the main dwelling.
 - (B) The accessory dwelling unit may be constructed only with the issuance of a Building Permit, and shall be constructed out of the same material as the main structure.
 - (C) The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sublet.
 - (D) Setback requirements shall be the same as for the main structure.
 - (E) Accessory dwellings are not permitted without the main or primary structure.
- (4) Accessory dwellings, including garage accessory dwellings and detached units, may be permitted in residential zoning districts and shall conform to the height limitations of the main structure. See regulations for the specific district, and the Use Charts, Sec. 12.130. No such accessory dwelling or quarters shall be used or occupied as a place of abode or residence by anyone other than a bona fide caretaker, servant or farm worker actually and regularly employed by the land owner or occupant of the main building, or is a guest or family member of the owner/occupant. Only one (1) accessory dwelling unit, including a garage accessory dwelling for servants or caretakers, shall be allowed on any lot within a residential zoning district, and they shall be clearly incidental to the primary use. These accessory living structures shall not, in any case, be leased or sold.

(5) Area Regulations for Accessory Buildings in Residential and Multi-Family Districts

Size of Yards:

- (A) Front Yard: Detached accessory buildings shall be prohibited in front of the main building.
- (B) Side Yard: There shall be a side yard not less than three feet (3') from any side lot line, or alley line for any accessory building provided that such building is separated from the main building by a minimum distance of ten feet (10'). In the case of an accessory building being closer than ten feet (10') to the main building, the minimum side yard requirements for the main building shall be observed. Accessory buildings adjacent to a side street shall have a side yard not less than fifteen feet (15'). Garages or carports located and arranged so as to be entered from the side yard shall have a minimum distance of twenty-five feet (25') from the side lot line, alley line, alley easement line or street. Carports or garages arranged to be entered from the side yard, facing a public street, shall have a minimum distance equal to the required yard for the main building or twenty-five feet (25'), whichever is greater.
- (C) Rear Yard: There shall be a rear yard not less than three feet (3') from any lot line or alley line, or alley easement line, with the exception of: a) carports, garages, or other accessory buildings, located within the rear portion of a lot as heretofore described, constructed closer than ten feet (10') to the main building, shall have a rear yard equivalent to the rear yard requirement for the main building; or b) accessory buildings constructed ten feet (10') or more from the main building shall have a rear yard of three feet (3'). If an alley exists, accessory buildings may be located within three feet (3') of a rear lot line if the maximum (or ridge) height of the building is no greater than eight feet (8') and if a solid fence or wall of the same height is built on the rear lot line to screen the building from property located to the rear. Garages or carports that are arranged so as to be entered by a motor vehicle from an alley or rear alley easement shall be set back from the rear property line or alley easement line a minimum distance of twenty-five feet (25').
- (D) Carports shall be measured from the posts supporting the roof nearest to the street or alley. (See Illustration 4).
- (E) Accessory buildings are not permitted without a main structure.
- (F) Accessory buildings shall not exceed one (1) story in height, unless otherwise allowed in the specific zoning district.

(c) **Communications Antennas and Support Structures/Towers**

(1) **Applicability:**

- (A) These regulations apply to all commercial and amateur antennae and support structures, unless exempted in Subsection (B) below.
- (B) Direct broadcast satellite reception, multi-channel multi-point distribution, as defined by the FCC, television reception antennae, and amateur radio antennae meeting the following requirements do not require a permit unless mounted on a pole or mast that is twenty feet (20') or more in height:
 - 1. In any zoning district, antennae that are one meter (39 inches) or less in diameter;
 - 2. In a non-residential zoning district, antennae that are two meters or less in diameter;
 - 3. In any zoning district, antennae designed to only receive television broadcasts;
 - 4. In any zoning district, amateur radio antennae concealed behind or located upon or within attics, eaves, gutters or roofing components of the building; and
 - 5. In any zoning district, amateur radio ground-mounted whips and wire antennae, unless mounted upon a pole or mast over twenty feet (20') in height.
- (C) Support structures or antennae legally installed before adoption of these regulations are not required to comply with this article, but must meet all applicable State, Federal and local requirements, building codes and safety standards.

(2) **Special Definitions** - For the purpose of this Section, the following special definitions shall apply:

- (A) **Antenna, Microwave Reflector & Antenna Support Structure** - An antenna is the arrangement of wires or metal rods used in transmission, retransmission and reception of radio, television, electromagnetic or microwave signals, including microwave reflectors and antennae. A microwave reflector is an apparatus constructed of solid, open mesh, bar-configured, or perforated materials of any shape or configuration that is used to receive or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay. Microwave reflectors are also commonly referred to as satellite receive only earth stations (T.V.R.O.S.), or satellite dishes. An antenna support structure is any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of supporting one or more antennae or microwave reflectors.

- (B) **Antenna (Non-Commercial/Amateur)** - An antenna or antenna support structure used for the purpose of transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business or for financial gain. A satellite dish antenna not exceeding six feet (6') in diameter shall also be considered as a non-commercial antenna.
- (C) **Antenna (Commercial)** - An antenna or antenna support structure used for the purpose of transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business or for financial gain, such as commercial broadcasting and cellular wireless telecommunications. A satellite dish antenna that exceeds six feet (6') in diameter shall also be considered as a commercial antenna.
- (D) **Collocation** - The use of a single support structure or site by more than one communications provider.
- (E) **Communications Operations (Non-Commercial/Amateur)** - The transmission, retransmission or reception of radio, television, electromagnetic, or microwave signals for private or personal use, and not for the purpose of operating a business or for financial gain.
- (F) **Communications Operations (Commercial)** - The transmission, retransmission, or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business or for financial gain.
- (G) **Height** - The distance measured from the finished grade of the lot or parcel to the highest point on the support structure or other structure, including the base pad and any antennae.
- (H) **Radio, Television or Microwave Tower** - See "Antenna, Microwave Reflector & Antenna Support Structure."
- (I) **Telecommunications Tower or Structure** - See "Antenna, Microwave Reflector & Antenna Support Structure."
- (J) **Temporary/Mobile Antenna** - An antenna and any associated support structure or equipment, including, but not limited to, a support pole, a vehicle that is placed and used on a temporary basis only not intended to be permanent, usually in conjunction with a special event, news coverage or emergency situation, or in case of equipment failure or temporary augmentation of permanent communications equipment.
- (K) **Wireless Communication Tower or Structure** - See "Antenna, Microwave Reflector & Antenna Support Structure."

(3) General Requirements

- (A) Antennae and support structures may be considered either principal or accessory uses.
- (B) Antenna installations shall comply with all other requirements of this article and the Code of Ordinances with the exception of those specifically cited within these regulations.
- (C) No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to twice the height of the support structure. Such setback distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line or residential dwelling. Setbacks from residentially zoned property do not apply to antennae attached to utility structures that exceed fifty feet (50') in height, or to antennae placed wholly within or mounted upon a building.
- (D) No amateur or commercial antenna, antenna support structure, microwave reflector or antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.
- (E) All antennae and support structures must meet or exceed the current standards and regulations of the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), and all other applicable Federal, State and local authorities. If those standards change, then the owner and user of an antenna or support structure must bring the antenna or structure into compliance within six (6) months or as may otherwise be required by the applicable regulating authority.
- (F) A building permit is required to erect or install an antenna, antenna support structure and related structures or equipment, unless the particular antenna is exempt from these regulations. All installations shall comply with applicable Federal, State and local building codes and the standards published by the Electronic Industries Association. Owners and users shall have thirty (30) days after receiving notice that an installation is in violation of applicable codes in order to bring it into full compliance.
- (G) Antennae, whether amateur or commercial, shall not create electromagnetic or other interference with the Village's and Travis County's radio frequencies and public safety operations, as required by the FCC. Antennae also shall not interfere with radio or television reception of nearby property owners. In no manner shall the use of such equipment infringe upon adjoining property owners.
- (H) No antenna or support structure shall be located so as to create a visual obstruction within critical visibility areas, such as at street intersections or where a private driveway enters a roadway, or a traffic safety problem.

- (I) Safeguards shall be utilized to prevent unauthorized access to an antenna installation, such as on a water tower or utility structure, and at a free-standing installation. Safeguards include certain devices identified and recommended by the manufacturer of the antenna or support structure, a fence, a climbing guard, or other commercially available safety devices. Climbing spikes or other similar climbing device, if utilized, shall be removed immediately following use.
- (J) Temporary antennae shall only be allowed in the following instances:
1. In conjunction with a festival, carnival, rodeo or other special event or activity;
 2. In case of an emergency, such as severe weather, or a news coverage event;
 3. When needed to restore service on a temporary basis after failure of an antenna installation. The Village must be notified within 72 hours of the placement of a temporary antenna. If the temporary antenna is to be needed for more than seven (7) days, then the owner and user must apply for and acquire a permit for the temporary installation on or before the eighth (8th) day following initial placement of the antenna.
- (K) Collocation is greatly encouraged by the Village.
1. All new support structures over fifty feet (50') in height shall be constructed to support antennae for at least two carriers, unless the structure is an alternative or stealth design, or the support structure is replacing an existing utility structure or light standard. Sufficient area for associated structures and equipment shall also be provided.
 2. A support structure which is modified or reconstructed in order to accommodate collocation shall be of the same type, design and height as the existing structure, and it may be moved on the same property within fifty feet (50') of its original location provided that it is not moved any closer to residentially zoned property. If the structure was allowed by CUP, then its new location shall be within the land boundaries of the CUP. The original support structure shall be removed from the property within ninety (90) days following completion of the new structure.
 3. Where an additional antenna is to be attached to an existing support structure that already has an antenna mounted upon it, the new antenna shall comply with and be compatible with the design of the existing antenna on the collocated structure.
- (L) Support buildings and equipment storage areas and buildings shall be screened from public view if mounted on a rooftop. When ground mounted, they shall meet all applicable front, side and rear yard setback requirements of the applicable base

zoning district. They shall also be of a neutral color and shall use exterior finish colors and materials that are compatible with nearby structures. They shall be screened from public view by a dense, opaque evergreen landscaped screen with an initial planting height of three feet (3'), and which will attain an ultimate height of six feet (6') at maturity. A six-foot (6') solid masonry wall may be used in lieu of the landscaped screen provided exterior finish materials are compatible with nearby structures. The use of a wood fence for screening is prohibited, and wrought iron or chain link may only be used in conjunction with a landscaped screen as specified above.

- (M) Satellite dishes and other similar antennae shall be permitted on the roof of a building, as long as satellite dishes do not exceed one meter (39") in diameter and antennae do not extend over ten feet (10') above the roof of the building. A letter certifying the roof's and building's structural stability shall be written and sealed by a licensed engineer, and shall be submitted to the Village Administrator, prior to any approval of a roof-mounted antenna. Roof-mounted antennae that comply with the provisions of these regulations do not require additional yard setbacks or setbacks from residential areas or dwellings.
- (N) Only one (1) amateur antenna and support structure shall be permitted per residential lot, except that a maximum of two (2) satellite dishes may be allowed if both units are no larger than one meter (39") in diameter. Satellite dishes in any residential district shall not exceed twelve feet (12') in diameter, and must be permitted by the Village Administrator.
- (O) All commercial signs, flags, lights and attachments other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the FAA or FCC shall be prohibited on any antenna or antenna support structure. However, lights may remain or be placed upon light standards that are altered or replaced in order for them to serve as antenna support structures provided that said lights are not commercial in nature, and provided that said lights are placed and replaced as the same size, configuration, number of bulbs and degree of luminance as they previously existed prior to support structure modification or replacement.
- (P) Any publicly owned antennae or antenna support structures shall be permitted in any zoning district, including public safety communications.
- (Q) In all residential zoning districts, including Agriculture, SF-RR, SF-20, SF-PH, SFA, and MF-1, commercial antennae and antenna support structures are prohibited, except as specified within this Section.
 - 1. A commercial antenna may be attached to a utility structure, including electrical transmission and distribution towers and elevated water storage tanks, provided that the utility structure exceeds fifty feet (50') in height, and provided that the antenna does not extend more than ten feet (10') above the height of the utility structure.

2. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building or structure if it is painted or disguised to integrate into the overall architectural design and it is not readily visible or identifiable as an antenna from public roadways or from neighboring residential properties.
- (R) In nonresidential zoning districts (including O, NS, R, TC, C, MU, P and DR), commercial antennae and antenna support structures are allowed as follows:
1. Commercial antenna support structures are allowed by right if they do not exceed the maximum building height allowed for the zoning district in which they are located. Structures in excess of the height allowed in the zoning district may be allowed by Conditional Use Permit (CUP) provided the structure conforms in all other aspects of the base zoning district's regulations, and provided that all applicable setback requirements are satisfied. In all nonresidential zoning districts, antenna support structures must meet all setback requirements, particularly from residential zoning districts.
 2. A commercial antenna may be attached to a utility structure, including electrical transmission, distribution towers and elevated water storage tanks, provided that the utility structure exceeds fifty feet (50') in height, and provided that the antenna does not extend more than ten feet (10') above the height of the utility structure.
 3. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may also be mounted flush to the exterior of a building or structure if it is painted or disguised to integrate into the overall architectural design, and it is not readily visible or identifiable as an antenna from public roadways or from neighboring residential properties.

(d) Sexually Oriented Businesses

(1) Purpose and Intent

- (A) It is the purpose of this section to regulate the location of sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the Village and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Village. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually

oriented entertainment to their intended market;

- (B) It is the intent of the Governing Body that the locational regulations of this section are promulgated pursuant to Chapter 243, Texas Local Government Code.

(2) Definitions in This Section

- (A) **Adult Arcade.** Means any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically or mechanically controlled still or other image producing to five or fewer persons motion picture machines, projectors, devices are maintained to show images per machine at any one time and where the image is so displayed or distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
- (B) **Adult Bookstore or Adult Video Store.** Means a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:
1. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
 2. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
- (C) **Adult Motion Picture Theater.** Means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (D) **Adult Theater.** Means a theater, concert hall or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are "specified anatomical areas" or characterized by the exposure of by "specified sexual activities."
- (E) **Establishment.** Means and includes any of the following:
1. The opening or commencement of any sexually oriented business as a new business;
 2. The conversion of an existing business whether or not a sexually oriented business, to any sexually oriented business;

3. The addition of any sexually oriented business to any other existing sexually oriented business; or
 4. The relocation of any sexually oriented business.
- (F) **Nude Model Studio.** Means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
- (G) **Nudity or State of Nudity.** Means the appearance of bare buttock, anus, male genitals, female genitals or female breasts.
- (H) **Person.** Means an individual, partnership, corporation, association or other legal entity.
- (I) **Semi-Nude.** Means a state of dress in which clothing covers no more than the genitals, pubic region, an areolae of the female breast, as well as portions of the body covered by supporting straps or devices.
- (J) **Sexually Oriented Business.** Means adult arcade, adult theater, adult bookstore, massage parlor, nude studio, modeling studio, love parlor or other similar commercial enterprise, the major business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer.
- (K) **Specified Anatomical Areas.** Means human genitals in a state of sexual arousal.
- (L) **Specified Sexual Activities.** Means and includes any of the following:
1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 3. Masturbation, actual or simulated; or
 4. Excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.

(3) Location of Sexually Oriented Businesses

- (A) A person commits an offense if he operates or causes to be operated a sexually oriented business within 1,000 feet (1,000') of:
1. a church;

2. a public or private elementary or secondary school;
 3. a boundary of a residential district as defined by the Subdivision Ordinance or this article;
 4. a public park adjacent to a residential district as defined by the Subdivision Ordinance or this article; or
 5. the property line of a lot devoted to residential use.
- (B) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.
- (C) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- (D) For the purposes of subsection 12.130(d)(3)(A), measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.
- (E) For purposes of Subsection 12.130(d)(3)(B), the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- (F) A sexually oriented business shall only be located in a district as allowed in the Use Charts in Sec. 12.130 of this article.
- (4) **Enforcement**
- (A) Any person violating this article, upon conviction, is punishable by a fine in accordance with the general penalty provision found in Sec. 12.145.
- (B) It is a defense to prosecution under this section that a person appearing in a state of nudity did so in a modeling class operated:
1. by a proprietary school licensed by the State of Texas; a college, junior college, or university supported entirely or partly by taxation:

2. by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. in a structure:
 - a) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - b) where in order to participate in a class a student must enroll at least three days in advance of the class; and
 - c) where no more than one nude model is on the premises at any one time.

(C) It is a defense to prosecution under this section that each item of descriptive, printed, film or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political, or scientific value.

(e) Alcoholic Beverage Sales

- (1) The sale of alcoholic beverages by a dealer whose place of business is within 300 feet (300') of church, public school, or public hospital is prohibited.
- (2) The measurement of the distance between the place of business where alcoholic beverages are sold and a church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public schools shall be in a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections.
- (3) The Governing Body may allow variances to this regulation if it determines that enforcement of the regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, and for any other reason the Governing Body, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

Division 4 - Development Standards and Use Regulations

Sec. 12.131 Off-Street Parking and Loading Requirements

(a) Purpose:

To secure safety from fire, panic, and other dangers; to lessen congestion on public streets; to facilitate the adequate provision of transportation; to conserve the value of buildings; and to encourage the most appropriate use of land. Minimum off-street parking and loading shall be provided as set forth in the following schedules and provisions.

(b) Residential Districts – Special Off-Street Parking Provisions:

- (1) Required off-street parking shall be provided on the same site as the use it is to serve.
- (2) All required vehicle parking shall be on a suitably paved parking surface. All driveways and approaches to parking spaces shall be similarly paved, except in the A and SF-RR Districts.
- (3) No required parking space, garage, carport, or other automobile storage space shall be used for the storage of any heavy load vehicle (see definitions for heavy load vehicle).

(c) Nonresidential and MF Districts – Special Off-Street Parking Provisions:

- (1) To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties and in accordance with the standards established in Sec. 12.137 of this article
- (2) For safety and fire-fighting purposes, free access through to adjacent nonresidential parking areas shall be provided in accordance with Sec. 12.131(j) (Fire Lanes).
- (3) All off-street parking, maneuvering, loading and storage areas shall be paved in accordance with the parking lot paving requirements in the Village's Code of Ordinances.

Parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Non-permanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

- (4) Each standard off-street surface parking space size shall be in accordance with the design standards as shown on Illustration 10 for space size and design. Specific parking space sizes, exclusive of aisles, driveways and maneuvering areas shall be in accordance with the following minimum sizes:

- (A) Standard: Nine feet (9') by eighteen feet (18')
 - (B) Parallel: Eight feet (8') by twenty-two feet (22')
-
- (5) All parking and loading spaces, and vehicle sales areas on private property shall have a vehicle stopping device, such as a curb or wheel stop, installed so as to prevent parking of motor vehicles in any required landscaped areas, to prevent vehicles from hitting buildings, to protect public or private utility structures or facilities, and to prevent parked vehicles from overhanging a public right-of-way line, public sidewalk, or adjacent private property. An extra-wide walkway on private property may be permitted so as to allow encroachment of vehicle overhang while maintaining an unobstructed four-foot (4') minimum walkway width. The requirement shall apply only where spaces are adjacent to the walks, right-of-way, and required landscaping. Parking shall not be permitted to encroach upon the public right-of-way in any case. For new construction only, all vehicle maneuvering shall take place on-site. No public right-of-way shall be used for backing or maneuvering into or from a parking space, or for circulation within the parking lot.
 - (6) In all nonresidential and multi-family zoning districts, the perimeter of all parking lots and driveways shall be provided with ribbon concrete curbs or other means to control traffic.
 - (7) Refuse storage facilities placed in a parking lot shall not be located in a designated parking or loading space. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies, and shall be appropriately screened, as required by Sec. 12.133.
 - (8) Parking space(s) for persons with disabilities and other associated provisions shall be provided according to building codes, State laws, and requirements of the Americans with Disabilities Act (ADA). Parking spaces for persons with disabilities shall be as close as possible to the entryway of the appropriate structure, and shall be appropriately and clearly marked.
 - (9) In all nonresidential and multi-family zoning categories, designated parking and loading areas shall not be used for the repair, storage, dismantling or servicing, except for normal maintenance of a private vehicle, of vehicles or equipment, or for the storage of materials or supplies, or for any other use in conflict with the designated parking and loading areas, including advertising or open storage of raw materials.
 - (10) To ensure that all requirements set forth in this Section are carried forward, it will be the responsibility of the owner of the parking area to adequately maintain the facility. All off-street parking areas shall be kept free of trash, debris, vehicle repair operation or display and advertising uses. At no time after initial approval of the parking area layout can changes be made in the location and number of provided spaces without approval of the Village Administrator.

- (11) Off-street stacking requirements for drive-through facilities:
- (A) A stacking space shall be an area on a site measuring eight feet (8') by twenty feet (20') with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other circulation driveway, parking space, or maneuvering area. An escape lane, of at least eight (8) feet in width and with negotiable geometric design, must be provided to allow vehicles to get out of stacking lane in the event of a stalled vehicle, emergency or accidental entry.
 - (B) For financial institutions with drive-through facilities, each teller window or station, human or mechanical, shall be provided with a minimum of five (5) stacking spaces. One escape lane shall be provided.
 - (C) For retail operations, other than restaurants, banks and kiosks that provide drive-up service, including pharmacy and dry cleaners, a minimum of three (3) stacking spaces for each service window shall be provided.
 - (D) For a full-service car wash, each vacuum or gas pump lane shall be provided with a minimum of four (4) stacking spaces. For the finish and drying area, adequate vehicle stacking and storage space must be provided to keep finished vehicles out of circulation aisles, access easements, fire lanes and streets.
 - (E) For each automated self-service car wash bay, a minimum of three (3) stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing.
 - (F) For each wand-type self-service car wash bay, a minimum of two (2) stacking spaces, in addition to the wash bay itself, shall be provided. One stacking space shall be provided at the exit end of each wash bay for window-drying and other detailing, unless a separate area and shade structure is provided, outside of circulation aisles, for these activities.
 - (G) For automobile quick-lube type facilities, a minimum of three (3) stacking spaces shall be provided for each service bay in addition to the service bay(s) itself.
- (12) All parking structures must conform to the construction and design standards of the district in which they are located.
- (13) The Governing Body shall have the authority to approve a greater or lesser parking requirement if a parking needs analysis, prepared by a qualified traffic engineer, demonstrates that a greater or lesser requirement would be appropriate.

(d) **Off-Street Loading Space -- All Districts:**

- (1) All retail and similar nonresidential structures shall provide and maintain off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. All drives and approaches shall provide adequate space and clearances to allow for the maneuvering of trucks off-street. Each site shall provide a designated on-site maneuvering area for trucks (see Illustration 2). Such off-street loading space may be adjacent to, but not on any portion of, a public alley or private service drive, or it may consist of a truck berth within the structure. Such off-street loading space or truck berth shall consist of a minimum area of ten feet by forty-five feet (10' x 45'), and such spaces or berths shall be provided in accordance with the following schedule:

| <u>Total Square Feet of Gross Floor Area in Structure</u> | <u>Minimum Required Spaces or Berths</u> |
|---|--|
| 0 to 10,000 square feet | None |
| 10,001 to 50,000 square feet | 1 |
| 50,001 to 100,000 square feet | 2 |
| Each additional 100,000 square feet | 1 additional |

- (2) In all nonresidential zoning districts, loading docks or service or delivery entrances shall not be constructed facing any public street, and shall not be visible from any public street.
- (3) In all nonresidential zoning districts, loading docks for any establishment that is adjacent to a residential use or district shall be setback from the adjacent residential district boundary by a distance of at least sixty feet (60'). In addition, such loading docks shall be designed and constructed so as to enclose the loading operation on three sides, in order to reduce the effects of the noise of the operation on adjacent residences.
- (4) In all nonresidential zoning districts, the hours any establishment within the Village shall receive goods shall be within the hours of operation of the zoning district within which the establishment is located.
- (5) Kindergartens, elementary schools, day schools, and similar child training and care establishments shall provide one (1) paved off-street pedestrian loading and unloading space for an automobile on a through, circular drive for each ten (10) students cared for, excluding child care in a residence. An additional lane shall also be required to allow pass-by or through traffic to move while automobiles waiting or parked to pick up children occupy loading and unloading areas.

(e) **Parking Access from a Public Street -- All Districts:**

- (1) In the approval of a Site Plan, design consideration shall be given to providing entrance and exit drives which extend into the site to provide adequate queuing of vehicles on the site.

- (2) In all districts, except single-family zoning districts, building plans shall provide for entrance and exit drive(s) appropriately designed and located to minimize traffic congestion or conflict within the site and with adjoining public streets as approved by the Village Administrator.
 - (A) Based upon analysis by the Village, if projected volumes of traffic entering or leaving a development are likely to interfere with the projected peak traffic flow volumes on adjoining streets, additional right-of-way and paving in the form of a deceleration lane or turn lane may be required of a developer in order to reduce such interference.
 - (B) The determination of additional right-of-way or paving requirements shall be made at the time the final site plan is submitted for approval.
- (3) Vehicular access to non-residential uses shall not be permitted from alleys serving residential areas, and shall not be configured as head-in parking spaces which are accessed directly from the street.
- (4) Parking space configuration, location, arrangement, size and circulation in all districts shall be constructed according to Illustration 10.

(f) Parking Requirements Based Upon Use:

In all districts, there shall be provided at the time any building or structure is erected or structurally altered, or change of use, off-street parking spaces in accordance with the following requirements:

- (1) Automobile parts sales (indoors): One (1) space per five hundred (500) square feet of indoor floor area, plus one (1) space for each two thousand (2,000) square feet of outside sales area.
- (2) Automobile sales or service: See Motor-Vehicle Sales.
- (3) Bank, savings and loan, or similar institution: One (1) space per two hundred and fifty (250) square feet of gross floor area in addition to required stacking spaces (see subsection 12.131(c)(11)).
- (4) Bed and breakfast facility: One (1) space per guest room in addition to the requirements for a normal residential use.
- (5) Business or professional office (general): One (1) space per three hundred (300) square feet of gross floor area, except as otherwise specified herein.
- (6) Car wash (self-serve): One (1) space per washing bay or stall in addition to the washing areas or stalls themselves and required stacking spaces; Car wash (full service): One (1) space per one hundred fifty (150) square feet of floor area in addition to the required stacking spaces (also see subsection 12.131(c)(11)).
- (7) Church, rectory, or other place of worship: One (1) parking space for each three (3) seats in the main sanctuary.

- (8) Commercial amusement (indoor): One (1) space per one-hundred (100) square feet of gross floor area, or as follows:
- (A) Racquetball or handball courts - Three (3) spaces for each court.
 - (B) Indoor tennis courts - Six (6) spaces for each court.
 - (C) Gymnasium, skating rinks, and martial arts schools - One (1) space for each three (3) seats at a maximum seating capacity, based upon maximum occupancy, plus one (1) space for each two hundred (200) square feet.
 - (D) Swimming pool - One (1) space for each one hundred (100) square feet of gross water surface and deck area.
 - (E) Weight lifting or exercise areas - One (1) space for each one hundred (100) square feet.
 - (F) Indoor jogging or running tracks - One (1) space for each one hundred (100) linear feet.
 - (G) Motion picture theaters which do not include live performances: a) one (1) space per three and one-half (3½) seats for single-screen theaters; b) one (1) space per five (5) seats for motion picture theaters with two (2) or more screens.
 - (H) Amusement Center - One (1) space for each game table and one (1) space for each amusement device.
 - (I) All areas for subsidiary uses not listed above or in other parts of this Section, such as restaurants or office, shall be calculated as the minimum specified for those individual uses.
- (9) Commercial amusement (outdoor): Ten (10) spaces plus one (1) space for each five hundred (500) square feet over five thousand (5,000) square feet of building and recreational area.
- (10) Commercial use: One (1) space per two hundred fifty (250) square feet of floor area.
- (11) Community center, library, museum or art gallery: Ten (10) parking spaces plus one (1) additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one (1) space for each four (4) seats that it contains.
- (12) Convenience store without gasoline pumps: One (1) space per two hundred (200) square feet of floor area; Parking requirements shall be the same as those required for a retail store. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling.
- (13) Dance or aerobics studio, or assembly or exhibition hall without fixed seats: One (1) parking space for each one hundred (100) square feet of floor area thereof.

- (14) Day nursery, day care center: One (1) space per ten (10) pupils, based upon maximum occupancy and licensing capacity, plus one (1) space per teacher, plus one (1) space for each bus or van stored on the property sized to accommodate the vehicle.
- (15) Defensive driving school or class: One (1) space for each classroom seat.
- (16) Furniture or appliance store, hardware store, wholesale establishments, clothing or shoe repair or service: Two (2) parking spaces plus one (1) additional parking space for each three hundred (300) square feet of floor area over one thousand (1,000) square feet.
- (17) Golf course: Four (4) parking spaces per hole or green plus requirements for retail, office, and club house areas and one (1) space per each two (2) employees.
- (18) Golf driving range: One and one-half (1½) spaces for each driving tee.
- (19) Health club, health spa or exercise club: One (1) space per one hundred fifty (150) square feet of floor area.
- (20) Hospital: One (1) space for each two (2) beds or examination room, whichever is applicable; plus one (1) space for every two (2) employees during periods of full occupancy.
- (21) Hotel or Motel: One (1) space per room for the first two hundred fifty (250) rooms and .75 space per room for each room over two hundred fifty (250), plus one (1) space per five (5) restaurant and lounge area seats, based upon maximum occupancy, plus one (1) space per one hundred twenty-five (125) square feet of meeting or conference areas.
 - (A) One and one-tenth (1.1) spaces per room which contains kitchenette facilities, plus parking for restaurant and meeting areas per ratio stated in this paragraph.
 - (B) Two (2) spaces per guest room provided with full kitchen facilities plus parking for restaurant and meeting areas per the ratio stated in this paragraph.
 - (C) One (1) space for every two (2) employees during peak time periods when the hotel or motel is fully occupied.
- (22) Institutions of a philanthropic nature: Ten (10) spaces plus one (1) space for each employee.
- (23) Library or museum: Ten (10) spaces plus one (1) space for every three hundred (300) square feet.
- (24) Lodge or fraternal organization: One (1) space per two hundred (200) square feet.
- (25) Medical or dental office: One (1) space per two hundred (200) square feet of floor area. Facilities over 20,000 square feet shall use the parking standards set forth for hospitals.

- (26) Mortuary or funeral home: One (1) parking space for each two hundred (200) square feet of floor space in slumber rooms, parlors or individual funeral service rooms, or one (1) space for each three (3) seats in the auditorium and sanctuary, whichever is greater. Adequate on-site stacking spaces shall also be provided for the organization and forming of processions such that these activities do not cause excessive or extended traffic congestion or delays on a public roadway.
- (27) Motor-vehicle sales and new or used car lots: One (1) parking space for each five hundred (500) square feet of sales floor and office space and other indoor uses, plus one (1) parking space for each one thousand (1,000) square feet of exterior lot area used for storage, sales and parking areas, plus one (1) parking space per repair bay in service areas, indoors or outdoors, plus one (1) parking space per service or towing vehicle to be stored on-site. Required parking spaces are in addition to those to be used for the storage or display of vehicles for sale or lease.
- (28) Nursing home, convalescent home, or home for the aged: One (1) space per six (6) beds; plus one (1) parking space for each three hundred (300) square feet of floor area devoted to offices, cafeterias, exercise or therapeutic rooms, and other similar ancillary uses; plus one (1) space for every two (2) employees at full occupancy.
- (29) Office (administrative or professional): One (1) space for each three hundred (300) square feet of floor area.
- (30) Pawn Shop: One (1) space for each two hundred (200) square feet of floor area.
- (31) Places of public assembly not listed: One (1) space for each three (3) seats provided.
- (32) Real estate office: One (1) space for each two hundred (200) square feet.
- (33) Restaurant, private club, night club, café or similar recreation or amusement establishment: One (1) parking space for each one hundred (100) square feet of gross floor area, including indoor and outdoor play areas and patio dining areas, or one (1) space for every three (3) seats under maximum seating arrangement, whichever is greater. Required parking spaces are in addition to any stacking spaces that may be needed for drive-through or drive-in facilities.
- (34) Retail or personal service establishment, except as otherwise specified herein: One (1) space per two hundred (200) square feet of gross floor area in addition to any required stacking spaces for drive-through facilities. For any retail use or structure over fifty thousand (50,000) square feet in size, the minimum number of parking spaces shall be one (1) space per two hundred and seventy-five (275) square feet, and the maximum number of spaces shall be one (1) space per two hundred and fifty (250) square feet.
- (35) Retirement housing for the elderly (independent living): One and one-half (1.5) spaces for each dwelling unit, plus any additional spaces for accessory retail, office, service or recreational uses.
- (36) Rooming or boarding house: One (1) parking space for each sleeping room, plus one (1) parking space for each host resident or employee during maximum (peak) shift.

- (37) School, elementary (grades K-6): One (1) parking space for each fifteen (15) students (design capacity).
- (38) School, secondary or middle (grades 7-8): One (1) parking space for each twelve (12) students (design capacity).
- (39) School, high school (grades 9-12): One space for each three (3) students, faculty and staff (design capacity).
- (40) Storage or warehousing: One (1) space for each two (2) employees or one (1) space for each one thousand (1,000) square feet of total floor area, whichever is greater.
- (41) Telemarketing: One (1) space for each two hundred and fifty (250) square feet of floor space.
- (42) Theater, indoor or outdoor live performances, sports arena, stadium, gymnasium or auditorium, except school auditorium: One (1) parking space for each three (3) seats or bench seating spaces.
- (43) Veterinarian clinic: One (1) space per three hundred (300) square feet of gross floor space.
- (44) Warehouse or wholesale type uses: One (1) space for five thousand (5,000) square feet of gross floor area.

(g) **Rules for Computing Number of Parking Spaces:**

In computing the number of parking spaces required for each of the above uses, the following rules shall govern:

- (1) **"Floor Area"** shall mean the gross floor area of the specific use.
- (2) **"Seat"** shall be interpreted as follows:
 - (A) For fixed seating, including church pews, grandstands and benches, one seat equals 1.75 feet of length; and
 - (B) For flexible seating areas, including folding chairs, one seat equals eight (8) square feet of floor area occupied by such seating area, includes aisles.
- (3) Where fractional spaces result, the parking spaces required shall be construed to be the next higher whole number.
- (4) The parking space requirements for a new or unlisted use not specifically mentioned herein shall be the same as required for a use of similar nature. If the proposed use is not similar to any of the uses listed herein, a determination shall be made by the Village Administrator, in accordance with the requirements for the most closely related use specified in this Section. In the event the applicant disagrees with this determination, then he or she may submit a written request for determination by the Commission and the Governing Body using the same process as provided

in Sec. 12.130(a)(4) for classifying new and unlisted uses.

- (5) Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (6) For buildings which have mixed uses within the same structure, such as retail and office, the parking requirement shall be calculated for the most intensive use. In cases where the design of the interior of the structure is not practical for alteration, the parking requirement may be calculated for each use within a structure for buildings over 20,000 square feet.
- (7) **Shared parking** may be allowed in the case of mixed uses in different buildings under the following conditions. Up to fifty percent (50%) of the parking spaces required for a theater or other place of evening entertainment occurring after 6:00 p.m., or for a church, may be provided and used jointly by banks, offices, and similar uses not normally open, used, or operated during evening hours. Shared parking must be on the same parking lot. Reduction due to shared parking shall be determined by the Governing Body. To assure retention of the shared parking spaces, each property owner shall properly draw and execute a document expressing the same and shall file this agreement with the Village.

(h) **Location of Parking Spaces:**

All parking spaces required herein shall be located on the same lot, and, in the case of nonresidential buildings or uses within 150 feet (150') of the building or use served, except as follows:

- (1) Where an increase in the number of spaces is required by a change or enlargement of an existing use, or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required additional spaces may be located not to exceed three hundred feet (300') from any nonresidential building served.
- (2) In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, approval by the Commission and the Governing Body is required according to the following criteria:

Off-site parking may be permitted on an immediately contiguous lot or tract, or on a lot or tract within one hundred fifty feet (150') of such building or structure providing:

- (A) That a permanent, irrevocable easement of the parking facilities in favor of the premises to be benefitted shall be dedicated and recorded as a condition of such use, or
- (B) That a long-term Remote Parking Lease Agreement be provided upon approval by the Village as a condition of such use.

(i) **Use of Required Parking Spaces, Non-Residential Districts:**

Required off-street parking and loading spaces shall be used only for these respective purposes and shall not be used for refuse containers, cart corrals, recycling kiosks, signs or sign support structures, telecommunications towers or support structures, storage or permanent display of boats, trailers, campers, motor vehicles or other goods, materials, or products for sale, lease or rent.

(j) **Fire Lanes:**

Fire lanes shall be provided in all multi-family, and in some single-family attached, manufactured home, and nonresidential developments, as required by the adopted Fire Code of the Village, and the Subdivision Ordinance for certain fire lane regulations. Fire lanes shall be a minimum width of twenty-four feet (24') of paving, and shall have a minimum inside turning radius at curves of twenty feet (20'), or as required by the Fire Code or the Fire Chief for the Village. The minimum overhead vertical clearance over fire lanes shall be fourteen feet (14').

Sec. 12.132 Landscape Requirements

(a) **Purpose:**

Landscaping is accepted as adding value to property and is in the interest of the general welfare of the Village. The provision of landscaped areas also serves to increase the amount of a property that is devoted to pervious surface area which, in turn, helps to reduce the amount of impervious surface area, storm water runoff, and consequent non-point pollution in local waterways. Therefore, landscaping is hereafter required of new development, except single- and two-family and agricultural uses, adjacent to public streets. Single- and two-family uses are generally not required to provide extensive landscaping at the time of development because they rarely fail to comply with the requirements set forth herein.

(b) **Creation of Trust Fund:**

A fund for the purpose of purchasing, planting, growing, and maintaining trees and associated plants, and other beautification projects within the Village, as determined by the Governing Body, is hereby established. The name of the fund shall be called the Bee Cave Beautification Trust Fund. The fund is to be expended in conformance with tree propagation and landscape projects approved by the Governing Body consistent with the Comprehensive Plan.

(c) **Definitions:**

For the purpose of this Sec. 12.132, the following terms have the following meanings:

Bee Cave Beautification Trust Fund - The fund created in Sec. 12.132(b) of this article.

Buffering and Screening - The use of plant material, other than mere grass on flat terrain, or the use of plant material along with berms, walls, decorative fences, and other decorative elements to obstruct the view from the street, of vehicular use areas, of mechanical and fuel storage equipment, of outside storage areas, of services, delivery or loading areas, and of areas for refuse collection; to promote compatibility between residential and nonresidential developments; and to provide privacy.

Building Official - The Building Official of the Village of Bee Cave, Texas, or his designee.

Building, Soil Erosion Control Permit - Official authorization issued by the Village of Bee Cave allowing defoliation or alteration of a site, a change which may result in soil erosion or alteration of site vegetative cover, or the commencement of any construction activities.

Caliper - The diameter of the trunk of a tree, as measured four and one half feet (4½') above the ground, measured from the soil line at the base of a tree.

Cover Area - That area which fall within the drip-line of any tree.

Cutting - The detachment or separation of any limb, branch, or root from a protected tree. Cutting shall also include pruning activities such as trimming, shaping, thinning, and selective pruning of trees.

Damage - Any action undertaken which causes immediate or long-term injury, death, or disfigurement to a required or protected tree. This includes, but is not limited to, cutting, poisoning, by application of or exposure to harmful chemical, over-watering, water deprivation, relocation or transplanting a required or protected tree, as well as trenching, excavating, backfilling or paving within the protected zone of a required protected tree.

Deadwood - Limbs, branches or a portion of a tree that contains no green leaves during a period of the year when they should be present.

Developed Property - Property upon which a building, structure, pavement, or other improvements have been placed.

Development - All land development activity, including the construction of building, roads, paved storage areas, and parking lots. "Development" also includes any land-disturbing construction activities or human-made change of the land surface, including clearing of vegetative cover, excavating, filling and grading, mining and dredging. Care and maintenance of lawns, gardens, and trees; minimal clearing, up to ten feet (10') wide, for surveying and testing; and agricultural activities are excluded from this definition.

Drip-line - A vertical line extending from the outermost portion of a tree's natural unpruned canopy to the ground.

Encroachments - Any intrusion or human activity into the protected zone of a required or protected tree including, but is not limited to, pruning, grading, excavating, backfilling, poisoning by application of or exposure to harmful chemicals, trenching, parking of vehicles or other heavy equipment, storage of materials or equipments, or the construction of structures or other improvements.

Landscaped Area - The area within the boundaries of a lot where applicable, the adjoining street right-of-way, which is predominantly pervious surface area that is dedicated to plant material, including, but not limited to grass, trees, shrubs, flowers, vines and other groundcover, native plant materials, planters, brick, stone, natural forms, water forms, aggregate and other landscape features, but not including the use of smooth or exposed aggregate concrete or asphalt; provided, however, that the use of brick, stone, aggregate or other inorganic materials shall not exceed twenty percent (20%) of the required landscape area.

Landscape Plan - A plan conforming to the requirements of Sec. 12.132(g) of this article.

Park - All publicly maintained areas designated as a park or greenbelt.

Person - Any natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, limited liability company, two or more natural persons having a joint or common interest, or any other legal or commercial entity.

Pervious - The ability of a substance to allow the passage of water. Pervious paver shall be considered as pervious cover, provided prepared base for pavers is also pervious.

Planting Strip - That part of a public street or highway, not covered by sidewalk or other paving, lying between the property line of adjoining property and that portion of the street or highway used or intended to be used for vehicular traffic.

Protected Tree - Any tree of a 6" caliper trunk or greater, as measured four and one-half feet (4 1/2') above the ground, or an otherwise designated specimen tree.

Protected Zone - A specifically defined area totally encompassing a required or protected tree within which work and other activities are strictly controlled. When depicted on a map showing an aerial view, the outermost edge of the protected zone will appear an irregular shaped circle that follows the contour of the drip-line of the tree. Using the drip-line as a point of reference, the protected zone shall commence at a point five feet (5') outside the drip-line and extended inward to the trunk of the tree. In no case shall the protected zone be less than fifteen feet (15') from the trunk of the tree.

Public - The term "public," when used as a modifier for such words as building, park, right-of-way, and similar words, shall mean "government-operated."

Public Places - All grounds other than parks which are owned by the Village.

Public Tree - Any trees that exist on publicly owned or controlled property within public rights-of-way.

Routine Maintenance - Actions needed for continued good health and growth of a tree including, but not limited to, removal of deadwood, disease and insect control spraying, fertilization and root stimulation when appropriate, aeration, mulching to maintain soil moisture, and watering, particularly immediately before and after the construction activities and during drought conditions.

Specimen Tree or Specimen Tree Stand - Any tree or group of trees which has been determined to be of high aesthetic value, including but not limited to oaks, elms, pear, madrones, unusual cedars or a caliper of at least twelve inches (12"), and other native trees listed in Section 12.132(l), because of its species, size, age,

historic value, or other definable criteria as so designated by the Building Official.

Street Yard - The area of a lot which lies between the street right-of-way and the actual front wall line of the building, as such building wall line extends from the outward corners of the building, parallel to the street, until such imaginary extension of such building wall line intersects the side property lines. In determining the actual building wall of the building for the purposes of this article, steps and unenclosed porches shall be excluded, but such building wall line shall follow and include the irregular indentation of the building. A front building wall is a building wall facing a street.

- (1) On Corner lots, the street yard shall consist of all the area of such lot between all abutting street right-of-way lines and the front of the building in the manner provided above.
- (2) When there are multiple buildings on a lot, the street yard shall consist of all the area of the lot between the street right-of-way and an imaginary line beginning at one side of the property, running parallel to the street, connecting to the foremost corner of the building wall fronting the street and nearest such side property line, then following and connecting the frontmost wall of the all buildings fronting on the street, and then extending to the other side of the property line, running parallel to the street. If the building has a rounded front, the front building wall corners shall be the points closest to the side boundaries. For the purposes of this section, isolated buildings less than 300 square feet shall not be considered in delineating the street yard.
- (3) Notwithstanding all of the foregoing, on land used only for parking purposes or only as a commercial or private parking lot, the street yard shall consist of the area between the street right-of-way and the back of the property line

Tree - Any self-supporting woody perennial plant which has a trunk diameter of two inches (2") or more when measured at a point six inches (6") above the ground level and which normally attains an overall height of at least ten feet (10') at maturity, usually, but not always, with one (1) main stem or trunk and many branches.

Undeveloped Property - Property upon which no building, structure, pavement or other improvements have been placed.

Village Engineer - The Village Engineer of the Village of Bee Cave, Texas.

Yard Area - An open space on the same lot with a building, the space being unoccupied and unobstructed from the ground upward, with the exception of trees and other natural vegetation.

(d) Application of This Section:

- (1) Except as otherwise provided, the landscaping requirements of this section shall apply to all land located in the Village.
 - (A) On nonresidential developments, such landscaping requirements shall become applicable as to each individual lot at the time an application for site plan approval on such lot is made. Site plan approvals shall not be granted prior to the Village approval of the Landscape Plan, as required by this section.

- (B) New construction on residential lots shall be subject to the requirements of this section, as provided below.
- (2) Each lot within a common development which includes more than one lot, and each phase of a phased project, shall comply with the requirements of this section.
- (3) The requirements of this section shall not apply to the following:
 - (A) Building permits for the substantial restoration of a building constructed prior to the adoption of this article, issued within a period of twelve (12) months after the building has been damaged by fire, explosions, flood, tornado, riot, act of the public enemy, or accident of any kind, provided that the building footprint is not enlarged by over twenty-five percent (25%) of the previously existing gross floor area.
 - (B) Building permits issued prior to the effective date of this article.
- (4) The provisions of this section shall be subordinate to any other governing provisions pertaining to traffic and pedestrian safety.
- (e) **General Landscape Requirements for New Nonresidential and Residential Development:**
 - (1) The provisions of this Section apply to all new nonresidential and residential development within the Village.
 - (2) **Preservation of Existing Landscape.** The existing natural landscape character, especially native oaks, elms, madrone, pear and pecan trees, shall be preserved to the maximum extent reasonable and feasible. For example, in an area of the street yard containing a stand of trees, the developer, and the builder shall use best good faith efforts to preserve such trees. *Celtis Occidentalis* (Hackberry) and *Juniperus Virginiana* and *Juniperus Ashei* (Common Cedar) with a caliper of less than twelve inches (12") are excluded from this provision, except for those located within the first twenty-five feet (25') from the rights-of-way as specified below. Indiscriminate clearing or stripping of natural vegetation on a lot is prohibited. Any part of a site not used for buildings, parking, driveways, walkways, utilities and approved storage areas shall be retained in a natural state, or reclaimed to its natural state, to the greatest extent feasible, or attractively landscaped in a manner that adds aesthetic value to the development.
 - (3) **Protected and Specimen Trees.** The removal of any tree with a caliper of six inches (6") or larger, or of any specimen tree, must be specifically requested by the applicant and approved in writing by the Building Official prior to any action being taken to remove the tree or to damage or disturb the tree in any way. Removal of such trees without this approval is expressly prohibited.

(4) **Required Maintenance and Replacement of Dead Plantings.** The Owner shall be responsible for.

(A) The regular routine maintenance, as defined in this section, of all required landscape and protected trees to maintain a vigorous, healthy, and growing condition, free from disease, pests, litter, and other undesirable elements;

(B) The repair or replacement of required landscape structures, including walls and fences, to a structurally sound condition in design compatible with and complementary to the surroundings.

(C) Dead plant materials within required plantings, as per the approved landscape plan, shall be replaced within one (1) year after they die.

(D) Any replacement plants must be of the same size and species as shown on the approved landscape plan, or they must, in terms of quality, size and species, equal or exceed the requirements of this section. Such plant replacements shall not be considered an amendment to the approved plan unless the landscape design is to be significantly altered.

(5) **Xeriscape Landscaping Preferred.** All landscaping, trees, shrubs, and ground covers should be of a type that minimizes water consumption, unless the overall project has an effluent water disposal requirement. The appearance of landscaped areas should be informal, with clustering preferred over rigid row plantings. A recommended list of native and adaptive plants suitable for landscaping is included in Sec. 12.132(l) as maintained on file in the office of the Village Secretary.

(f) **Landscape Requirements for Nonresidential Developments:**

(1) The provisions of this Section apply to all new nonresidential developments within the Village.

(2) **Buffer along Bee Caves Road (F.M. 2244), State Highway 71, Hamilton Pool Road, and F.M. 620.** Except for the clearing necessary to provide utilities, sidewalks, or access, no clearing of trees shall be permitted within seventy-five feet (75') of any public street.

(3) **Landscaped buffer strips required between residential and nonresidential uses.** All lots, or parts of lots, which are improved with a predominantly nonresidential use and whose side or rear lot lines are adjacent to a residential district or use and not separated by a public street or roadway, shall be screened from such residential district or use by a landscaped buffer strip consisting of a suitable fence and plant material at least six feet (6') in height, as shall be approved by the Governing Body along such side or rear lot lines thereof. Where a screening wall or fence is used, such fence shall be constructed of wood or masonry materials to provide a solid visual barrier as approved by the Governing Body, and shall be placed entirely upon the lot wherein the nonresidential use is located. Maintenance responsibility of such fence or wall shall be borne by the nonresidential property owner.

- (4) **Landscaped buffer strips – Height of Planting.** The required height of landscape buffer screens shall be measured from the elevation of the adjacent area to be screened. In cases where the elevation of the planting location is less than the elevation of the edge of the adjacent area to be screened, the required height of the screen or planting shall be increased in an amount equal to such difference in elevation up to total height of eight feet (8'). In cases where the elevation of the planting location is greater than that at the edge of the adjacent area, the required height of the screen may be reduced in an amount equal to such difference in elevation; provided, that in no case shall the required height be reduced more than two feet (2') or to less than four feet (4'). This is to ensure screening of taller buildings, and to lessen the possibility that people or vehicles would go over the screen onto adjoining residential property.
- (5) **Landscape Buffer Strips – Width.** Buffer strips required under this section shall be at least twenty-five feet (25') in width at all points, and shall be graded and furnished with appropriate ground cover and other vegetation and structures as shall be recommended and approved by the Governing Body. Landscaped buffer strips shall be maintained and kept clean of all debris, rubbish, foreign materials and weeds.
- (6) **Landscaped Buffer Strips – Screen Planting Generally.** Within buffer areas using landscaped buffer strips designated to be six feet (6') in height, a solid and continuous landscape screen shall be planted and maintained. Such landscaping shall consist of massed evergreen and deciduous trees and shrubs of such species and sex as to produce a predominantly opaque screen at least six feet (6') in height and within three (3) years, or three growing seasons, of initial planting, and such that the screening materials continually restrict a clear view beyond such buffer strip.
- (7) **Screening of equipment and storage areas required.** All mechanical equipment, fuel storage, materials storage, ground-mounted satellite dishes and antennae, service or delivery areas and solid waste container areas shall be screened from the street by an appropriate vegetative screen or fence, except to the extent needed to provide access.
- (8) **Substitution of fence or wall for plantings.** In required buffer areas where a natural vegetative buffer strip is deemed impracticable, or inappropriate, a suitable screening wall or fence may be substituted, as recommended by the Commission and as approved by the Governing Body.
- (9) **Fences.** Fences and fence supporting structure shall be well constructed, durable, maintained in good condition, and promptly removed, if not a required fence, or replaced, if a required fence or screen, if dilapidated or unsightly.
- (10) In approving fences and walls, the Village shall be guided by the proposed structure's appropriateness to the character of the neighborhood, and by the rights of the adjacent landowners to views and prevailing breezes. Fences must be muted in color to prevent visual domination of the landscape or structure which it contains.
- (11) **Landscaping of Street Yards.** On all nonresidential and residential land to which this regulation applies under Sec. 12.132(d), at least twenty percent (20%) of the street yard shall be landscaped. No newly planted trees in the right-of-way shall be counted toward the satisfaction of the requirements in subsection (1) below.

- (12) **Trees.** All newly planted trees shall be planted in a pervious area of at least sixty four (64) square feet in size, and no curb or pavement shall be located within five feet (5') of the trunk of any tree. Within the street yard, at least one (1) tree of at least a three inch (3") caliper, either existing or planted, shall be included and replaced as necessary to maintain the following minimum ratios:
- (A) In street yards up to 10,000 square feet, 1 tree per 1,000 square feet, or fraction thereof, of street yard.
 - (B) In street yards between 10,000 and 110,000 square feet, 1 tree per 2,500 square feet, or fraction thereof, of street yard area over 10,000 square feet is added to the requirement of 10 trees as stipulated in subsection (A) above.
- (13) **Screening.** All parking and drainage, including stormwater collection, retention and detention ponds, areas adjacent to roadways, all off-street loading areas and off-street parking areas containing three or more parking spaces shall have effective buffering from the street view and from adjacent properties. Landscaped buffers or landscaped berms at least three feet (3') in height shall be appropriate for screening of parking and drainage areas. Vegetation selected for the three-foot (3') height screen shall be of evergreen plant species, and they shall be spaced and massed so as to provide a solid screen within two (2) years, or two growing seasons, from the planting date. Buffer and highway planting should include a variety of plant species with low maintenance requirements, selected from the plant materials listed in Section 12.132(1) as maintained on file in the office of the Village Secretary. A combination of shrub and tree plantings is preferred; but in any case, a minimum of one (1) tree of a minimum three inch (3") caliper and a minimum eight feet (8') in height, and three (3) shrubs of a minimum five (5) gallon size, are required for each thirty feet (30') of street frontage. Groundcover should be planted on landscaped berms with appropriate plant container size and spacing that will provide full coverage within one (1) year of installation in order to prevent erosion. Berms shall be designated to transition to existing grades, and shall not exceed a slope of 3:1. A slope greater than this is generally difficult to mow and maintain.
- (14) **Required Landscaping in Vehicular Use Areas.** Within all vehicular use areas and parking areas of a street yard, a minimum of fifteen percent (15%) of the gross square footage of such vehicular use areas shall be devoted to landscaped islands, peninsulas and medians. Vehicular use areas and parking areas include the area within the parking lot boundaries, as determined by extending the curb lines of these areas around the outside perimeter of the area. Sidewalks and designated loading or unloading areas for service vehicles shall not be considered as vehicular use areas. All off-street parking areas that provide for ten (10) or more vehicles shall have trees planted and maintained within the boundaries of the parking area including within islands, peninsulas, and medians, in a ratio of at least one (1) tree with a three inch (3") caliper trunk or greater for each ten (10) parking spaces, or fraction thereof, in soil plots of at least sixty-four (64) square feet. For parking lots with twenty (20) or more spaces, at least fifty percent (50%) of the required parking area landscaping shall be installed in islands separating adjacent parking spaces, and in peninsulas parallel to individual parking spaces.

(15) Landscaped Islands, Peninsulas, and Medians.

- (A) The number and size, subject to the per tree pervious soil requirement above, and shape of required islands, peninsulas, and medians within all street yards shall be at the discretion of the owner and in accordance with governing provisions pertaining to visibility, traffic and pedestrian safety. However, no parking space shall be located further than fifty (50) feet from a tree in a pervious landscaped island, peninsulas median. All islands, peninsulas, and medians required in the areas stated above, shall be more or less evenly distributed throughout such parking areas, respectively; however, the distribution and location of landscaped islands, peninsulas and medians may be adjusted to accommodate existing trees or other natural features so long as the total area requirement for landscaped islands peninsulas, and medians for the respective parking areas above, is satisfied. Canopy trees to create shade over paved surfaces should be provided wherever possible.
- (B) Landscaped islands, peninsulas, and medians located within the street yard shall not count toward fulfilling the requirements of subsection (I).
- (C) Except for landscaping of rights-of-way, all landscaping which is required in landscaped areas and which is adjacent to pavements shall be protected with concrete curbs or equivalent, visually attractive barriers such as wheel stops, stone or masonry bumpers, or railroad.

(16) Plantings Within Rights-of-way and Easements. It shall be fully understood and agreed that any landscaping over dedicated utility or drainage easements may require removal and replacement at the owner's expense should such easements be required by any authorized utility company, should they be required to provide adequate drainage from areas of higher elevation.

In order to utilize the right-of-way or easements as provided above, said right-of-way or easement shall be subject to the following requirements.

- (A) The Village or any other regulating body may at any time require such landscaping to be removed, and the Village shall not be held responsible or liable for any cost or damages due to such removals. If such landscaping is required to be removed, it shall be replaced elsewhere within the remaining street yard within ninety (90) days or in the next planting season.
- (B) All such landscaping shall be in compliance with all governing provisions pertaining to visibility, traffic, and pedestrian safety.
- (C) No planter or other permanent structure may be placed within the right-of-way or within drainage or utility easements.
- (D) The owner of the lot shall be responsible for maintaining any landscaping located within the right-of-way adjacent to his property, and within any drainage or utility easements located on his property.

- (E) In the event that any other governmental entity owns or controls the public right-of-way at the particular location in question, permission for installation of the landscaping must be obtained from the entity involved.

In addition to enforcing the penalty provision of this article, the Village may remove, from the street rights-of-way, any growths and materials prohibited by this section and, in so doing, the Village, its officers, agents and employees shall not be liable to the owners thereof. Any expense incurred by the Village for such removals will be charged to the property owner.

- (17) **Visibility, Traffic and Pedestrian Safety.** Landscaping, including plant materials, berms and walls, shall not obstruct the view of vehicles between the street and access drives or parking aisles near the street yard entries and exits, nor shall any landscaping which creates an obstruction of view be located in the radius of any curb return. All plant materials within critical visibility areas shall be less than thirty inches (30") in height or shall be single-trunk trees that have a clear trunk height of at least nine feet (9') above the ground in order to ensure good visibility for all types of vehicles.

- (18) **Landscape irrigation.** All required landscaping areas shall be 100% irrigated by one of the following methods, or a combination of methods:

- (A) An automatic underground irrigation system;
- (B) A drip irrigation; or
- (C) A hose attachment within one hundred feet (100') of all plant material, provided, however, a hose attachment within two hundred feet (200') of all plant material in non-street yards shall be sufficient.

All irrigation systems shall be designed and sealed in accordance with the Texas Licensed Irrigators Act.

No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

- (19) **Water Features and Detention Ponds.** Manmade water features, such as fountains and ponds, that incorporate the use of natural rock, are encouraged, and should be designed as an integral part of the overall landscape design concept. These features are especially desirable in courtyards, patio areas, and natural low-lying areas. It is encouraged that stormwater detention areas be designed to freeform shapes to blend with the natural landscape, and the use of natural rocks and boulders with spillways of natural rock is encouraged to create visual appeal.

- (20) **Compatibility.** All new development proposals should consider the existing landscape within four hundred feet (400') of the project site, so that landscape continuity can be achieved and maintained throughout the community.

(g) Landscape Plan – Nonresidential Developments Only:

- (1) This Section applies to all new nonresidential development within the Village.**
- (2) When an application is made for a site plan approval, a landscaping plan shall also be submitted along with the site plan for any development where the landscaping requirements of this section are applicable. Such Site Plan shall be accompanied by a Landscape Plan at the same scale as the Site Plan, with enlarged details, as needed, to show detailed planting areas, containing the information listed in subsections (A) through (M) below, and shall be submitted to the Commission and approved by the Governing Body.**
 - (A) The legal description of the property;**
 - (B) The date, scale (to be a known engineering scale), north point, title or name of the development, and the name and address and phone number of the owner;**
 - (C) The name, address and phone number of the company or individual who prepared the Landscape Plan;**
 - (D) The location of existing boundary lines and dimensions of the tract;**
 - (E) A topographical map with two foot (2') contours, referenced to sea level datum, showing building footprints, streets, driveways, utility and drainage easements, parking areas, drainage and utility structures, and other site improvements drawn to scale,**
 - (F) The approximate center line of existing water courses and designated floodplains; the approximate locations of significant drainage features; and the location and size of existing and proposed streets and alleys, existing and proposed easements on or adjacent to the lot, and existing and proposed sidewalks adjacent to the street.**
 - (G) The location, caliper size, and species of existing trees within the limits of construction, within the street yard, and within public rights-of-way adjacent to the lot(s), having trunks six inches (6") caliper or larger and the corresponding size of their crowns. All specimen trees with a caliper of twelve inches (12") or larger must be drawn such that they are easily visible to the plan observer.**
 - (H) The location, size, and type of proposed landscaping in proposed landscaped areas; and the location and size, by square footage, of proposed landscaped areas.**
 - (I) Information, including area tabulation data, necessary for verifying whether the required minimum percent of landscaped area has been met as required by Secs. 12.132(f)(11) and (14).**
 - (J) Nominal planting details and specifications, including specified plant and tree species, container size, initial planted height, plant spacing and caliper size, as appropriate for each type of plant material, for the installation of the proposed landscape.**

(K) Location of and construction details for the protective barrier the applicant plans to use to protect existing trees; which are proposed to be retained; from damage during construction as required by Sec. 12.132(h).

(L) The proposed irrigation system as required by Sec. 12.132(f).

(M) Certification:

1. Lot or combined lots less than one (1) acre in area – Certification by an architect, landscape architect, or licensed nurseryman, that the plans satisfy the requirements of this section.
2. Lot or combined lots more than one (1) acre in area – Certification by a landscape architect that plans satisfy the requirements of the section.

(3) If a project is developed in phases, required landscaping and screening must be completed in sequence with development plans and shown as such on a landscape plan.

(h) Protection of Trees – Residential and Nonresidential Development:

(1) This Section applies to all new residential and nonresidential development within the Village.

(2) All protected trees next to an excavation site or to a construction site for any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four feet (4') high and surrounding the entire protected zone of the tree(s). The barriers shall be approved by the Building Official and shall be in place before any site clearance or other site-disturbing act commences. Any barrier with lesser dimensions than those specified above shall be subject to approval by the Building Official. All building material, dirt, excavation or fill materials, chemicals, construction vehicles or equipment, debris, and other materials shall be kept outside the barrier. Barriers shall remain in place until the final building and landscape site inspections are satisfactorily completed for the issuance of the Certificate of Occupancy.

(3) No person shall excavate any ditches, tunnels, or trenches, place any paving material, or play any drive within the protective zone of any public tree without first obtaining a written permit from the Building Official.

(4) Unless specifically authorized by the Building Official, no person shall intentionally damage, cut, carve, transplant, or remove any public tree or shrub; attach any rope, wire, nails, advertising posters, or other contrivance to any public tree or shrub; allow any gaseous, liquid or solid substance which is harmful to such plants to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree or shrub.

(5) It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct the view from any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be ten (10) feet over sidewalks and fourteen

feet (14') over all streets, except truck thoroughfares which shall require a clearance of sixteen feet (16').

- (6) It shall be the duty of any person or persons owning, occupying or controlling real property upon which tree trimming or removal occurs to advise all landscape contractors, tree services, arborists and others who remove or trim trees of the need for proper disinfection of all cutting tools and the required painting of all tree cuts on oak trees with a proper sealant immediately after cutting or pruning to prevent the spread of oak wilt and to ensure such sealing of cuts.
- (7) The removal of an existing tree(s) from a development site must be in accordance with this and all other applicable ordinances of the Village.

Prior to the removal of any protected or specimen tree, as defined within this section, the property owner must first submit a letter to the Village Administrator, that describes in detail which tree(s) will be removed, how the removal will be performed, including what machinery and equipment will be needed, and the date and time whereupon the anticipated removal will occur. The letter must also include a notarized statement by the owner that the tree(s) to be removed is (are) either not a protected or specimen tree(s), as defined within this section, or that its (their) removal will be in complete conformance with the provisions of this section. The letter must be submitted at least one week in advance of the removal operation.

(i) Credits – Nonresidential Developments:

- (1) This Section applies to all new nonresidential development within the Village.
- (2) As an incentive to retain existing trees in the street yard, exclusive of the trees contained in the vegetative buffer required under Sec. 12.132(f) of this section, an existing tree of a four (4) to six (6) inch caliper shall be considered as 1.5 trees for the purposes of satisfying the requirements of Sec. 12.132(f).
- (3) Any existing tree in the street yard which is at least eight inches (8") in caliper, or is at least six inches (6") in caliper and at least fifteen feet (15') tall, shall be considered as two (2) trees for the purposes of satisfying the requirements of Sec. 12.132(f).
- (4) *Celtis Occidentalis* (hackberry), *Juniperus Virginiana* and *Juniperis Ashei* (Common Cedar) are excluded from this provision.

(j) Fees – Residential and Nonresidential Development:

- (1) This Section applies to all new residential and nonresidential development within the Village.
- (2) An inspection fee of \$.10 per square foot for the required landscaped area shall be collected by the Building Official at the time of application for a building permit. In no case shall the fee exceed \$600.00 or be less than \$75.00. This fee shall be calculated without regard to any credits to which the applicant may be entitled.

- (3) In the event that a tree is approved for removal, the following fees shall apply. All diameters shown reference caliper size of tree, as measured four and one-half (4 1/2') feet above the average grade level.

(A) Replacement fee for Valuations per tree*:

0-2" Diameter – No Fee

2.01" and greater in Diameter -- \$250.00 per inch

(B) Fee for Valuation of Multi-Acre Tracts**

Less than 5 acres -- \$10,000

5.01 acres to 10 acres -- \$20,000

10.01 acres to 20 acres -- \$30,000

20.01 acres to 30 acres -- \$40,000

30.01 acres to 50 acres -- \$65,000

50.01 acres plus -- \$75,000 + \$500/acre

**Celtis Occidentalis* (hackberry) and *Juniperus Virginiana* and *Juniperus Ashei* (Common Cedar) with a caliper of twelve inches (12") or less are excluded from this provision.

**Multiple-acre tracts will have the option of paying a flat fee or paying per tree removed.

- (4) **Delay of Landscape Installation.** If the required landscaping is not yet in place, the developer or owner shall make fiscal arrangements, by bond, certificate of deposit or letter of credit, satisfactory to the Village Administrator in the amount of two dollars (\$2.00) per square foot of required landscaping not in place to ensure that such landscaping shall be installed. Any owner wishing to make such fiscal arrangements must also grant license to the Village to enter upon the land for the purpose of installing the required landscaping in the event that such landscaping is not in place at the time of the inspection required by the preceding subsection. Such fiscal arrangements shall be released if the required landscaping is in place at the time of such inspection. Compliance with this section must be met within nine (9) months, or during the first growing season, of the issuance of the Certificate of Occupancy.

- (5) All fees under this Section shall be placed in the Bee Cave Beautification Trust Fund.

(k) **Maintenance:**

The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not to be limited to, mowing of grass six inches or higher, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds, and other such material or plants not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size, within ninety (90) days. Trees with a trunk

diameter in excess of six inches (6") measured twenty-four inches (24") above the ground may be replaced with ones of similar variety having a trunk diameter of no less than three inches (3") measured twenty-four inches (24") above the ground. A time extension may be granted by the Village Administrator, if substantial evidence is presented to indicate abnormal circumstances beyond the control of the owner or his or her agent.

(I) **Approved Plant List:**

Large Trees

(within parking areas
or as street trees)

Pecan
Chinese Pistache
Chinquapin Oak
Live Oak
Red Oak
Shumard Oak
Lacey Oak
Cedar Elm
Texas Ash
White Ash
Bald Cypress
Laurel Oak

Large Trees

(non-vehicular areas)

Bur Oak
Texas Persimmon
Western Soapberry

Small Trees

Bradford Pear
Aristocrat Pear
Crape Myrtle
Vasey Oak
Mexican Plum
Yaupon Holly
Golden Raintree
Southern Wax Myrtle
Redbud
Japanese Black Pine
Rusty 'Blackhaw' Viburnum
Shining Sumac
Possumhaw Holly
Carolina Buckthorn
Mexican Buckeye
Eve's Necklace

Evergreen Shrubs

(Acceptable for low [5' or less]
screening)

Dwarf Abelia
Dwarf Yaupon Holly
Dwarf Burford Holly
Japanese Boxwood
Eleagnus
'Berries Jubilee' Holly
Carissa Holly
'Dazzler' Holly
Nandina

Evergreen Shrubs

(Acceptable as noted for
6' screening)

Red Tip Photinia
Cleyera
Nellie R. Stevens Holly
Waxleaf Ligustrum
Chinese Photinia
Abelia
Burford Holly
'Mary Nell' Holly

Other Shrubs

Possumhaw Holly
Chinese Holly
Juniper
Sumac
Fragrant Mimosa
American Beauty Berry
Barberry
Autumn Sage
Evergreen Sumac

Ground Cover

Asian Jasmine
Honeysuckle
English Ivy
Liriope
Monkey Grass
Vinca (Periwinkle)
Trailing Juniper
Hardy Plumbago

Notes:

- Plants in *italics* are preferred due to their lower water demand as designated in "Landscape Water Conservation....Xeriscape" published by the Texas Agricultural Extension Service.
- Additional plant material may be approved as appropriate.

Sec. 12.133 Fencing, Walls and Screening Requirements

(a) Purpose:

To encourage the most appropriate use of land while conserving and protecting the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this Section in accordance with the following standards.

(b) Screening of Nonresidential, Multi-Family Areas and Manufactured and Mobile Home Parks:

- (1) In the event that multi-family, non-residential uses, or manufactured or mobile home parks side or back upon a single-family or residential PD District, or in the event that any non-residential district sides or backs upon a multiple-family district, a solid masonry or wood screening wall of not less than six feet (6'), nor more than eight feet (8'), in height shall be erected in conjunction with landscaping elements on the property line separating these districts. The purpose of the screening wall or fence is to provide a visual and protective barrier between the properties.
 - (A) The owner of the multi-family property shall be responsible for and shall build and maintain the required wall on the property line dividing the property from the single-family residential district. This construction requirement applies only when multi-family is adjacent to residential uses.
 - (B) When screening is required between nonresidential and residential uses, it shall be the responsibility of the nonresidential use to construct and maintain the screening wall.
 - (C) Any screening wall or fence required under the provisions of this Section or under a Conditional Use Permit, Planned Development District, or other requirement shall be constructed of masonry, reinforced concrete, or other similar suitable permanent materials which do not contain openings. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or

fence.

- (D) Alternative equivalent screening may be approved through the site plan approval process, Sec. 12.111.
- (2) In nonresidential and multi-family zoning districts, no fence or wall shall be erected in any front yard or side yard which is adjacent to a public street unless the fence or wall is required to screen the development from an adjacent residential area, particularly if the residence has, or could have, a back yard fence that would be exposed to view from the street if the required screening wall were not extended out to the street right-of-way line. If required to screen a residential area, the screening fence or wall shall be extended out to the street right-of-way line by the developer of the nonresidential or multi-family development, and the fence or wall shall be finished on both sides in a manner and color that is compatible to the exterior finish materials used on the nonresidential or multi-family buildings. Screening fences or walls shall be placed such that they do not impede visibility for vehicles entering or exiting the nonresidential or multi-family development, as required by Sec. 12.133.
- (3) All fences require permits.
- (4) See Sec. 12.135(g) for sight visibility requirements for fences and screening walls.
- (5) Open storage of materials, commodities or equipment shall be screened with a minimum six-foot (6') fence or wall, and shall not be visible from the street or from adjacent property. (See definition of "outside storage" in Sec. 12.139.)
- (6) In districts permitting open storage, screening shall be required only for those areas used for open storage. A six-foot (6') screening fence or wall shall be provided and maintained at the property line adjacent to the area to be screened by one or a combination of the following methods:
 - (A) Solid masonry consisting of rock, stone, or other material that is equivalent, visually and qualitatively;
 - (B) Wrought iron in conjunction with solid landscape screening;
 - (C) Wood or wood vinyl in conjunction with solid landscape screening; and,
 - (D) Alternate equivalent screening may be approved through the site plan approval process under Sec. 12.111.

No outside storage may exceed the height of the fence. Outside storage exceeding eight feet (8') shall require a Conditional Use Permit.

- (7) Refuse storage areas which are not within a screened rear service area and which are visible from a public right-of-way for all nonresidential, multi-family and manufactured or mobile home park uses shall be visually screened by a minimum six-foot (6') solid masonry wall on at least three sides (see Illustration 11 for refuse container enclosure diagrams). The fourth side, which is to be used for garbage pickup service, may provide an optional gate to secure the refuse storage area. Alternate equivalent screening methods may be approved

through the site plan approval process, Sec. 12.111. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies. Adequate reinforced paved areas shall be provided for refuse facilities and their approaches for loading and unloading, as per Illustration 11.

- (8) Plans and specifications for screening and fencing around ground-mounted utility structures, including transformers and natural gas regulating stations, shall be approved in writing by the affected utility company, and shall be submitted, along with an approval letter from the utility company, to the Village Administrator for review and approval prior to construction of said screening or fencing.

(c) Fences in Residential Areas:

- (1) Any fence or wall located to the rear of the minimum required front yard line shall not exceed eight feet (8') in height.
- (2) Except as may be provided elsewhere herein, no fence or wall shall be permitted within the required front yard of any single-family residential lot which is adjacent to a public street. No residential fence shall be closer than fifteen feet (15') to a public street except in cases where the side or rear building line of the yards on continuous corner lots adjoin, the fence may be constructed out to the property line of said side yard such that the street side yard may be included as part of the lot's back yard area.
- (3) No barbed wire, electrical, or chain link fencing shall be allowed except as used for farm or ranching purposes on undeveloped land that is not located along or adjacent to a thoroughfare within the Village and is over one (1) acre in size.
- (4) Gates designed for vehicular access shall be set back from the property line a minimum of twenty-five feet (25').
- (5) Fences around swimming pools shall comply with the Standard Swimming Pool Code and the Village's codes or ordinances pertaining to same.
- (6) Sec. 12.135(g) provides the sight visibility requirements for fences and screening walls.
- (7) Special purpose fencing, such as fencing around tennis courts, is permitted.

Sec. 12.134 Exterior Construction and Design Requirements

(a) Exterior Construction Requirements and Standards:

Definitions - For the purpose of this Section, the following definitions shall apply:

- (1) Masonry Construction** shall include all construction of stone material, brick material, concrete masonry units, or concrete panel construction, which is composed of solid, cavity, faced, or veneered-wall construction.

The standards for masonry construction types are listed below:

- (A) Stone Material** - Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all weather stone. Cut stone and dimensioned stone techniques are acceptable.
 - (B) Brick Material** - Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material which meets the latest version of ASTM standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), and shall be Severe Weather (SW) grade, and Type FBA or FBS or better. Unfired or underfired clay, sand, or shale brick are not allowed.
 - (C) Concrete Masonry Units** - Concrete masonry units used for masonry construction shall meet the latest version of the following applicable specifications; ASTM C90, Standard Specification for Hollow Load Bearing Concrete Masonry Units; ASTM C145, Standard Specification for Solid Load Bearing Masonry Units; ASTM C129, Standard Specification for Hollow and Solid Nonload Bearing Units. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish as approved by the Governing Body. Lightweight concrete block or cinder block construction is not acceptable as an exterior finish.
 - (D) Concrete Panel Construction** - Concrete finish, pre-cast panel, tilt wall, or cementitious composition reinforced panel construction shall be painted, fluted, or exposed aggregate. Smooth or untextured concrete finishes are not acceptable unless painted.
- (2) Glass and Metal Standards** are as follows:

Glass walls shall include glass curtain walls or glass block construction. Glass curtain wall shall be defined as an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.

(b) **Construction Standards:**

- (1) **Construction Standards** - The standards and criteria contained within this Section are deemed to be minimum standards and shall apply to all new, altered or repaired construction occurring within the Village.

(A) **Residential:**

1. All residential buildings and structures shall be of exterior fire resistant construction having at least seventy-five percent (75%) of the total exterior walls above grade level and below the first floor plate line, excluding doors and windows, constructed of rock brick, stone, or material of equal characteristics in accordance with the Village's Building and Fire Codes. Strict adherence to this rule shall not be such as to prevent architectural creativity.
2. All principal buildings and structures located in the MF Districts shall be of exterior fire resistant construction having at least seventy-five percent (75%) of the total exterior walls, excluding doors and windows, constructed of rock, brick, stone, or other material of equal characteristics in accordance with the Village's Building and Fire Codes.
3. Concrete or metal exterior construction is not permitted on any residential structure.
4. The roof pitch of all residential structures shall have a ratio of at least 6:12.
5. Exemptions:
 - a) Barns on property of three (3) acres or more, provided that such barns are used solely for agricultural purposes as distinguished from commercial or industrial purposes, shall be exempt from provisions of this Section.
 - b) Mobile homes otherwise lawfully existing under the provisions of this article shall also be excluded from provision of this Section.
 - c) Historic structures.

(B) **Nonresidential:**

1. All nonresidential structures, including parking structures, shall be of exterior fire resistant construction having at least seventy-five percent (75%) of the total exterior walls above grade level, excluding doors and windows, constructed of masonry or other equivalent material, in accordance with the Village's Building Fire Codes. Strict adherence to this requirement shall not be such as to prevent architectural creativity.

2. The following materials are permitted materials for exterior construction:

- a) Limestone
- b) Rustic wood
- c) Stucco
- d) Granite
- e) Marble
- f) Other stone
- g) Glass, permitted as thirty percent (30%) or less of the exterior wall

Use of other exterior construction materials may be permitted by the Governing Body at the time of site plan approval.

3. The following materials for exterior construction require a conditional use permit:

- a) Brick
- b) Painted wood
- c) Concrete
- d) Glass, when over thirty percent (30%) of the exterior wall
- e) Synthetic materials
- f) Adobe (brick)

4. The following materials are permitted for roof construction:

- a) Copper
- b) Tile

Reflective roofs are prohibited.

5. The exterior color of all nonresidential structures must be in keeping with the "Hill Country look" of the Village, and therefore shall be muted, rustic earth tones. Bright colors like pinks, purples, and those classified as primary colors are expressly prohibited.

6. **Elevated Water Storage Tanks and Pump Stations** - All water storage facilities which serve the public shall be designed and painted to compliment natural surroundings. All public water storage facilities shall be placed, to the extent possible, so as to have minimal negative impact on surrounding areas and shall be painted earthtone, natural colors. The Governing Body shall be authorized to approve alternate color selections if such color(s) are more acceptable with surrounding areas.
7. **Temporary Construction Buildings** - Temporary buildings and temporary building material storage areas to be used for construction purposes may be permitted for a specific period of time in accordance with a permit issued by the Building Official and subject to periodic renewal by the inspector for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices or buildings and material storage areas shall be removed at the satisfaction of the Building Official.

(2) **Procedure for Determining Alternative Exterior Materials:**

- (A) All written requests for alternative exterior building materials shall be noted and described on the site plan. If requested by the Village, a sample(s) of the proposed exterior finish material(s) may be required to be submitted with the site plan.
- (B) The Village may approve an alternative exterior material if it is determined to be equivalent or better than the exterior materials cited in Subsection 12.134(b)(1)(B) above as part of the approval of the site plan.
- (C) Consideration for exceptions to the above requirements shall be based only on the following:
 1. Architectural design and creativity
 2. Compatibility with surrounding developed properties
- (D) The request shall be reviewed by the Commission, and shall be approved or disapproved by the Governing Body.

(c) **Exterior Design Standards:**

Purpose - To ensure the aesthetic value and visual appeal of nonresidential land uses and structures.

- (1) Facade articulation of at least five feet (5') in depth shall be required for every fifty feet (50') in vertical and horizontal surface length (refer to Illustration 13).
- (2) Facade offsets shall be shown, along with calculations verifying that the building elevations meet the above requirement, on a building facade (elevation) plan, and shall be submitted for Commission review and approval by the Governing Body along with the Site Plan.

(d) **Design and Material Requirements for Water Quality and Nonpoint Source Pollution Control Facilities:**

- (1) All above-ground facilities used for water quality management and nonpoint pollution control, including retention and detention ponds, shall be designed using natural stone materials consistent with the Comprehensive Plan.
- (2) Alternative materials may be used in the design of above ground facilities when approved by the Governing Body at the time of site plan approval.

Sec. 12.135 Supplemental Regulations

- (a)
- (1) **Measuring Setbacks** - All setback measurements shall be made in accordance with Illustrations 5 through 9.
 - (2) **Configuration of Lots** - Wherever possible, flag lots (lots with minimal, or panhandle type, frontage) shall be avoided. Similarly, through (double frontage) lots shall also be avoided wherever possible, particularly within residential zoning districts.
 - (3) **Separation Standards** - All nonresidential structures shall be separated by a distance of not less than thirty feet (30').
 - (4) **Setback from Cemetery** - No building or paving shall be placed closer than twenty feet (20') from any cemetery.

(b) **Front Yard:**

- (1) On all corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless approved specifically otherwise on a final plat. Where single-family lots have double frontage, extending from one street to another, or are on a corner, a required front yard shall be provided on both streets unless a side or rear yard building line has been established along one frontage on the plat, in which event only one required front yard need be observed. The side and rear yards in the case of single-family uses shall be identified and the front of the structure shall not face the side or rear yard (see Illustration 8).
- (2) Where the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage (see Illustration 6).
- (3) The front yard shall be measured from the property line to the front face of the building, to the nearest supporting member of a covered porch or terrace, or to any attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed four feet (4'), and subsurface structures,

platforms or slabs may not project into the front yard to a height greater than thirty inches (30") above the average grade of the yard (see Illustration 6).

- (4) Minimum lot widths for lots with predominate frontage on the curved radius of a street, including those located on a cul-de-sac or "eyebrow" portion of a street, shall be measured as the linear distance of the curved front building line, and shall be shown on the subdivision plat. Lot widths for all lots shall be as set forth in the respective zoning district for each lot.
- (5) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts the the front, side, or rear yard shall be measured from the future right-of-way line.
- (6) All nonresidential and multi-family uses shall observe a minimum setback of seventy-five feet (75') along State Highway 71, F.M. 620, F.M. 2244 (Bee Cave Road), and Hamilton Pool Road.

(c) Side Yards:

- (1) On a corner lot used for one-family dwellings, both street exposures shall be treated as front yards on all lots platted after August 29, 2000 except that where one street exposure is designated as a side yard for both adjacent lots or where the two lots are separated by an alley, street right-of-way, creek or flood plain area, or other similar phenomenon. In such case, a building line may be designated by the Village Administrator, with a minimum side yard of fifteen feet (15') or more, as determined by the applicable zoning district standards. On lots which were official lots of record prior to the effective date of this article, the minimum side yard adjacent to a side street shall comply with the minimum required side yard for the respective district.
- (2) Every part of a required side yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, and other architectural features not to exceed twelve inches (12") into the required side yard, and roof eaves projecting not to exceed thirty-six inches (36") into the required side yard. Air conditioning compressors and similar equipment are permitted in the side yard.
- (3) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

(d) Special Height Regulations:

- (1) In the districts where the height of buildings is restricted to two (2) to three (3) stories, cooling towers may extend for an additional height not to exceed fifty feet (50') above the average grade line of the building. Water stand pipes and tanks, church steeples, domes and spires, school buildings, and institutional buildings may be erected to exceed the height

limit, as specified in the particular zoning district, provided that one (1) additional foot shall be added to the width and depth of front, side, and rear yards for each foot that such structures exceed the district height limit.

(2) Calculation of Height

- (A) For the purposes of calculating the overall height of a structure, slope shall be calculated from the highest point of the building at natural grade to the lowest point of the building at natural grade, or the natural grade of an adjoining road, along a line that is, as close as possible, perpendicular to existing contours.
- (B) The height shall be measured from the highest parapet or roof ridge to natural grade or finish grade at the lowest point adjacent to the building exterior, whichever yields the greatest height.
- (C) No structure shall be placed on any lot in such a way that will unreasonably obscure the view from a building located or reasonably likely to be located upon an adjacent lot. Consideration shall be given to views from neighboring properties.

(e) Minimum Flooring Area per Unit Area:

Minimum dwelling unit areas specified in this article shall be computed exclusive of breezeways, garages, open porches, carports and accessory buildings.

(f) Open Storage Areas:

Open storage of materials, commodities or equipment, where allowed in the specific zoning district, shall be located behind the front building line and observe all setback requirements for the main structure or building. This standard does not apply to outside display as defined in Sec. 12.139. There are screening requirements in Sec. 12.133; and special requirements for outside display within zoning districts.

(g) Sight Visibility:

Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding or landscaping thirty inches (30") or higher above the street center line obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection as follows:

- (1) At a street intersection, clear vision must be maintained for a minimum of twenty-five feet (25') across any lot measured from the corner of the property line in both directions (see Illustration 12).
- (2) At an intersection with an alley, this clearance must be maintained for ten feet (10') (see Illustration 12).

- (3) Shrubs and hedges that are typically less than thirty inches (30") in height at maturity, as measured from the centerline of the street, may be located in the visual clearance areas of all districts.
- (4) A limited number of single-trunk trees having a clear trunk height of at least eight feet (8') may be located within sight visibility areas provided that they are spaced and positioned such that they will not produce a visibility inhibiting, "picket-fence" effect when they attain mature size.

Sec. 12.136 Performance Standards

- (a) In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by County, State and Federal agencies. All uses, including those which may be allowed by PD or CUP, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.

- (b) All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed.

- (c) **Noise:**

At no point at the bounding property line of any use shall the sound pressure level of any operation or plant exceed the decibel limits specified in the Octave Band groups designated in the following table:

- (1) Maximum Permissible Daytime* Octave Band:

Decibel Limits at the Bounding Property Line**

| | | | | | | | | | |
|--|----|-----|-----|-----|------|------|------|------|-------|
| Octave Band | 37 | 75 | 150 | 300 | 600 | 1200 | 2400 | 4800 | A |
| (cps) | 75 | 150 | 300 | 600 | 1200 | 2400 | 4800 | 9600 | Scale |
| Decibel Band Limit (db re 0.0002 Microbar) | 86 | 76 | 70 | 65 | 63 | 58 | 55 | 53 | 65 |

Note -- "A scale" levels are provided for monitoring purposes only and are not applicable to detailed sound analysis.

* "Daytime" shall refer to the hours between sunrise and sunset on any given day.

****** *"Bounding Property Line" shall be interpreted as being at the near side of any street, alley, stream, or other permanently dedicated open space from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between two parcels of property shall be interpreted as the bounding property line.*

- (2) The following corrections shall be made to the table of octave band-decibel limits in determining compliance with the noise level standards.

When noise is present at nighttime, subtract (-7db.)

When noise contains strong pure-tone components or is impulsive, that is when meter changes

at 10 decibels or more per second, subtract (-7db.)

When noise is present for not more than the following, add (+10db):

½ minute in any ½ hour period
1 minute in any 1 hour period
10 minutes in any 2 hour period
20 minutes in any 4 hour period

- (3) Measurement of noise shall be made with a sound level meter on octave band analyzer meeting the standards prescribed by the American Standards Association.
- (4) Exemptions - The following uses and activities shall be exempt from the noise level regulations herein specified.
- (A) Noises not directly under control of the property user.
 - (B) Noises emanating from construction and maintenance activities between the hours of 7:00 a.m. and 7:00 p.m.
 - (C) Noises of safety signals, warning devices and emergency pressure relief valves.
 - (D) Transient noise of moving sources such as automobiles, trucks, and airplanes.

(d) **Smoke and Particulate Matter:**

No operation or use shall cause, create, or allow the emission for more than three minutes in any one hour of air contaminants which at the emission point or within the bounds of the property are:

- (1) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed by the ASTM except that, when the presence of uncombined water is the only reason for failure to comply or when such contaminants are emitted inside a building which prevents their escape into the atmosphere, the standards specified in 3-1302-1 and 3-1302-2 shall not apply.

- (2) The emission of particulate matter from all sources shall not exceed 0.5 pounds per acre of property within the plant site per any one hour.
- (3) Open storage and open processing operations, including on-site transportation movements which are the source of wind or air borne dust or other particulate matter; or which involves dust or other particulate air contaminants, generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage or sand blasting shall be so conducted that dust and other particulate matter so generated are not transported across the boundary line of the tract on which the use is located in concentrations exceeding four grains per 1000 cubic feet of air.

(e) **Odorous Matter:**

- (1) No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the bounding property line or any point beyond the tract on which such use or operation is located.
- (2) The odor threshold as herein set forth shall be determined by observation by a person or persons. In any case, where uncertainty may arise or where the operator or owner of an odor emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures specified by American Society for Testing Materials A.S.T.M.D. 1391-57 entitled "Standard Method for Measurement of Odor in Atmospheres" shall be used and a copy of A.S.T.M.D. 1391-57 is hereby incorporated by reference.

(f) **Fire or Explosive Hazard Material:**

- (1) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, perchlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists or wholesalers may be permitted when approved by the Fire Chief for the Village.
- (2) The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the Village Fire Code or are approved by the Fire Chief.

(g) **Toxic and Noxious Matter:**

No operation or use shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed 10 percent of the concentration considered as the threshold limit for an industrial worker as such standards are set forth by the Texas State Department of Health in "Threshold Limit Values Occupational Health

Regulation No. 3," a copy of which is hereby incorporated by reference.

(h) **Vibration:**

No operation or use shall at any time create earthborne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

| <u>Frequency</u> <u>Cycles Per Second</u> | <u>Displacement</u> <u>in Inches</u> |
|--|---|
| 0 to 10 | 0.0010 |
| 10 to 20 | 0.0008 |
| 20 to 30 | 0.0005 |
| 30 to 40 | 0.0004 |
| 40 and over | 0.0003 |

Section 12.137 Lighting and Glare Standards

(a) **Purpose and Intent:**

- (1) Outdoor lighting shall be required for safety and personal security in areas of public assembly and traverse for multiple family developments, as well as municipal, commercial, industrial, and institutional uses where there is outdoor public activity during hours of darkness. Glare and light trespass control shall be required to protect inhabitants from the consequences of stray light shining in inhabitants' eyes or onto neighboring properties. Light pollution control shall be required to minimize the negative effect of misdirected upward light. The glare, light trespass, and light pollution requirements of this section shall apply to all uses, including residential, and all jurisdictions including public, private and municipal.
- (2) It is the purpose of this section to create standards for outdoor lighting design, installation, operation, and maintenance practices and systems that will: minimize glare, light trespass, light pollution and urban sky glow; improve safety and security, curtail the degradation of the overall nighttime visual environment; and conserve energy and resources while maintaining nighttime utility and productivity by:
 - (A) Using fixtures with good optical control to distribute light in the most effective and efficient manner;
 - (B) Using minimum quantity of light to meet the lighting criteria;
 - (C) Using shielded outdoor light fixtures where required and wherever feasible;

- (D) Energizing light fixtures only when necessary, by means of automatic timing devices;
- (E) Requiring that certain outdoor light fixtures be turned off between 8:30 p.m. and sunrise; and
- (F) Using low pressure sodium outdoor light fixtures wherever feasible, when color rendition is not a factor.

(b) **Definitions Applicable to this Section 12.137:**

- (1) **Automatic timing device** - A device which automatically turns on and off outdoor light fixtures or circuits. Photo-controls are not considered automatic timing devices for purposes of this Section.
- (2) **Cut-Off Angle (of a luminaire)** - The angle, measured from nadir (straight down), between the vertical axis and the first line of sight at which the lamp (bulb) is not visible.
- (3) **Cut-Off Luminaire** - A luminaire (fixture) in which two and one-half percent (2.5%) or less of the lamp lumens are emitted above a horizontal plane through the luminaire's lowest part and ten percent (10%) or less of the lamp lumens are emitted at a vertical angle eighty (80) degrees above the luminaire's lowest point.
- (4) **Fixture (Luminaire)** - The assembly that holds the lamp(s) in a lighting system. It includes the elements designed to give light output control, such as a reflector or refractor, the ballast, housing and attachment parts.
- (5) **Footcandle (FC)** - A unit of measure of illuminance amounting to one lumen per square foot.
- (6) **Full Cut-Off** - A luminaire which cuts off all upward transmission of light above a ninety degree, horizontal plan from the base of the fixture, as certified by a photometric test report.
- (7) **Fully Shielded** - An outdoor luminaire that is shielded or constructed so that no light is emitted, either directly from the lamp or indirectly from the fixture, above the cutoff angle of the fixture, as certified by a photometric test report.
- (8) **Glare** - Glare can be disabling, discomforting and/or simply a nuisance. There are three types of glare:
 - (A) **Disability Glare (Veiling Luminance)**- Reduces visibility by reducing the contrast of the primary image on the retina.
 - (B) **Discomfort Glare** - Does not necessarily reduce the ability to see an object but produces a sensation of discomfort. It is caused by high contrast or a non-uniform distribution of luminance within the field of view.

- (C) **Nuisance or annoyance glare** - has not yet been quantified although research is ongoing. For now, it may be defined as glare that causes complaints, such the "light shining in my window" phenomenon.
- (9) **IES** - Illuminating Engineering Society of North America - A professional organization that provides recommended lighting standards to the lighting industry.
- (10) **Illuminance** - The quantity of light (in lumens) arriving at a surface divided by the area of the illuminated surface (in square feet), measured in footcandles.
- (11) **Light Pollution** - Artificial light which causes a detrimental effect on the environment, astronomical research, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties. Also, the night sky glow caused by the scattering of artificial light in the atmosphere.
- (12) **Light Source** - The lamp (bulb), and lens, diffuser, or reflective enclosure.
- (13) **Light Trespass** - Light projected onto a property from a fixture not located on that property.
- (14) **Luminaire** - A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power source.
- (15) **Lumen** - The measure of the quantity or output of the lamp. One footcandle is one lumen per square foot.
- (16) **Luminous tube lighting** - Gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, which may be neon, argon or other.
- (17) **Mounting Height** - The height of the fixture or lamp above the ground.
- (18) **Person** - Any individual, tenant, lessee, owner, or any commercial entity, or legal entity of any kind, including but not limited to a firm, business, partnership, joint venture, or corporation.
- (19) **Outdoor Lighting** - Light from electrically powered outdoor illuminating devices or reflective surfaces, lamps or similar devices, permanently installed or portable, used for illumination or advertising.
- (20) **Outdoor Lighting Fixture** - Any type of fixed or movable lighting equipment that is designed or used for illumination outdoors. The term includes billboard lighting, street lights, searchlights and other lighting used for advertising purposes, and area lighting. The term does not include lighting equipment that is required by law to be installed on motor vehicles or lighting required for the safe operation of aircraft.

- (21) **Shielding** - A technique or method of construction which causes light emitted from an outdoor light fixture to be projected below an imaginary plane passing through the luminaire.
- (22) **Uniformity Ratio** - The maximum to minimum Illuminance requirement within a given area. For example; with a 4:1 ratio, the average level of illumination should be no more than four times the lowest level of illumination.
- (23) **Urban Sky Glow** - The undesirable brightening of the night sky due to manmade lighting.

(c) **General Requirements:**

- (1) Outdoor lighting systems shall be installed, operated and maintained in conformance with the provisions of this section, the National Electric Code and the applicable Building Code.. This includes outdoor lighting for office, commercial, industrial, utility and public use buildings and structures, landscape lighting, business display and service areas, street lighting, recreational areas, and all parking lots, including lots for multi-family residential use.
- (2) The Governing Body shall have the express authority to require outdoor lighting users to comply with the provisions of this section wherein their reasonable discretion is warranted for public safety or welfare.
- (3) Outdoor lighting installed prior to the effective date of this article are exempt from the provisions of this article for a period of five (5) years, except:
 - (A) Any luminaire which is improperly installed or is aimed improperly shall be adjusted and brought into compliance with this article within ninety days
 - (B) Lighting systems or luminaires which are determined by the Governing Body to create safety or health hazard can be ordered at any time by the Village Administrator to be removed or modified.
- (4) Inoperative luminaires shall be brought into full compliance upon replacement including source, cut-off fixture type and aiming. The new or replacement outdoor lighting fixture shall be a cut-off luminaire if the rated output of the lamp or light source is greater than 1,800 lumens.
- (5) All outdoor lighting systems existing or hereafter installed and maintained upon private property within commercial, industrial or multi-family zones shall be turned off between 8:30 p.m. and sunrise except when used for:
 - (A) Commercial and industrial uses, such as in sales, assembly and repair areas where such use continues after 8:30 p.m. but only for so long as such use continues;

- (B) Security purposes or to illuminate walkways, roadways, equipment yards and parking lots; and
 - (C) Recreational use where a scheduled game of baseball or soccer is in progress at 8:30 p.m., on Monday, Tuesday, Wednesday, Thursday or Friday, but only until the game is completed, or 9:30 p.m., whichever comes first.
 - (6) All outdoor lighting shall have the Illuminance, measured in footcandles, and uniformity ratios in accordance with the current Recommended Lighting Levels and Practices of Illuminating Engineering Society of North America (IESNA). See Sec. 12.137(m).
 - (7) Ground mounted flood lighting shall illuminate only the task. Use controlled angle lighting, use the minimum Illuminance authorized under IESNA design standards to restrict light trespass and light pollution.
- (d) **Approved Materials and Methods of Installation:**
- (1) The provisions of this Section are not intended to prevent the use of any design, material, or method of installation, even if not specifically prescribed by this Section provided such alternate has been approved by the Village Administrator.
 - (2) Outdoor lighting shall comply with the following:
 - (A) Wall packs are prohibited unless fully shielded.
 - (B) Luminaires shall be fully shielded with full cut-off with the exception of sources less than 1800 lumens.
 - (C) Fully shield luminaires shall have a cut-off angle of no more than eighty (80) degrees, as measured from nadir.
 - (D) Mounting Height - Outdoor pole mounted and building mounted luminaires (excluding roadway and street lighting) in parking lots shall not exceed 18' and 12' respectively (including base), as measured from the immediate adjacent grade to the top of the fixture.
 - (E) Outdoor recreational field pole mounted lighting shall be treated on an individual basis. Applicants must request a review and follow submission requirements in Sec. 12.137(h).
- (e) **Energy Conservation and Maintenance Issues:**
- (1) **Light Sources.** The efficiency of a light source is measured in lumens per watt, also called efficacy. The most efficient light source is the low pressure sodium lamp and the least efficient is the incandescent. Sources also vary significantly in lamp life, color temperature,

meaning the apparent color of the source, and color rendition, meaning the color objects appear when illuminated. Selection of a source must take into consideration all of these factors. The following is a list of the most commonly used light sources ranked in order to most efficient to least efficient: See Sec. 12.137(n) for additional performance criteria.

- (A) Low pressure sodium
- (B) High pressure sodium
- (C) Metal Halide
- (D) Fluorescent
- (E) Tungsten Halogen (also called quartz)
- (F) Mercury Vapor
- (G) Incandescent

(2) Maintenance

- (A) Documentation shall be filed with the Village Administrator detailing maintenance program including relamping and cleaning schedule.
- (B) Pole-mounted luminaires can become misaligned if the support pole is nudged by a vehicle, or rendered useless if the pole is knocked over. When laying out pole locations, especially aluminum standards, poles shall be placed on pedestals or mounted away from vehicular traffic. Adherence to the Department of Transportation's setback requirements for poles adjacent to vehicular travelways is required. Break-away pole bases shall not be used near pedestrian traffic since falling poles could inflict major injuries and property damage. In parking areas, poles shall be mounted on concrete pedestals at least 36" high to avoid damage from bumpers.
- (C) Bollards should be installed on low bases, or surrounded by edging to reduce the chance that lawn maintenance equipment will come into contact with them. Rugged, vandal-proof luminaire construction shall be required for use in public settings.
- (D) Installations that complement maintenance - During installation several steps can be taken to facilitate the future maintenance process:
 - 1. Mount the ground-based equipment where it is accessible for easy inspection and maintenance.

2. Clearly label all switching devices such as breakers, contractors, and switches, as to the circuits and equipment they control.
3. Except under rare circumstances, run luminaire feeds underground. Avoid using overhead wiring.
4. Securely fasten and tighten all luminaire components and aiming devices.
5. Thoroughly test the equipment to ensure it is operating as specified.

(f) Light Trespass:

- (1) Light trespass or obtrusive light typically falls into two categories:
 - (A) Adjacent property receives unwanted light (high illuminance levels)
 - (B) Excessive brightness occurs in the normal field of vision (nuisance glare)
- (2) The following are general recommendations to assist in controlling light trespass problems:
 - (A) Inspect areas adjacent to the lighting design location to identify and consider any potential problems involving residences, roadways, and airports.
 - (B) Select luminaires with tightly controlled candela distributions, using sharp-cutoff reflectors and refractors.
 - (C) Contain light within the design area by carefully selecting, locating, and mounting the luminaires.
 - (D) Use well-shielded luminaires or select equipment that can be shielded. If a potential problem is found after installation, then shields can be added.
 - (E) Keep floodlight aiming angles low so that the entire beam always falls within the intended lighted area during and after the design and installation process.

Outdoor lighting systems shall not produce unwanted light onto adjacent property as measured from the property line. Employ full cut-off, shielding, appropriate aiming, mounting height as needed to prevent light trespass. If, after all corrective action has been taken, there is illumination crossing the property boundary, under no circumstance shall the illumination be greater than 0.05 footcandles, as measured at five feet (5') inside the residential zoned property.

(g) Illumination Levels and Design Standards:

All outdoor lighting shall have illuminance (footcandles) and uniformity ratios in accordance with the current appropriate recommended lighting levels and practices of the Illuminating Engineering

Society of North America (IESNA). Sec. 12.137(m) reflects recommended lighting levels and practices in the IES Lighting Handbook, 8th edition (1993).

(h) Submission of Lighting Plan:

- (1) Applications for a building permit or similar permit will include submission of a Lighting Plan. The Lighting Plan shall clearly demonstrate compliance with this Section.
- (2) This same information is also required whenever new type of outdoor lighting system, luminaire or light source is proposed to replace an existing device, or there are other proposed changes such as light pole location, number of luminaires.
- (3) Submission information shall include but is not limited to:
 - (A) Name, Address, Telephone Number, email address and date of application.
 - (B) Site plan showing structure on site, block and plat designation and street address.
 - (C) Six (6) sets of scaled plans and specifications for project.
 - (D) Electrical drawing fully detailed identifying and describing each outdoor light fixture on the site.
 - (E) Schedule of luminaires and Light Source. Include manufacturer's cut sheets with physical descriptions, photometric data with peripheral attachments such as reflectors, refractors, optics, mounting heights and details.
 - (F) Proposed hours of operation of each outdoor light fixture.
 - (G) Lighting Controls Submission
 - (H) List design criteria used for (A) maintained horizontal illumination in footcandles (B) Maximum footcandles (C) Minimum footcandles (D) average footcandles and (E) Uniformity ratio
 - (I) Show lighting impact to adjacent property
 - (J) Iso-footcandle curves or computer-generated photometric grid analyses showing footcandle readings every ten foot.
 - (K) Location and height of pole mounted and building mounted luminaires. (No Wall Packs unless fully shielded).

(i) Permit Application and Approval Process:

- (1) All representations, whether oral or written, made by the applicant or his agent upon application of permit, shall be considered in the approval process and shall become conditions of the permit. It is unlawful to vary from the conditions of the permit unless an amendment is made and approved by the Village Administrator.**
- (2) The Applicant shall pay the required fee plus any cost incurred by the Village for outside professional services in the review and approval process at the time of application.**
- (3) Application and Appeals Procedure:**
 - (A) The Village Administrator shall review the signed application when it has been fully and properly submitted, and after having determined that the outdoor lighting meets all of the requirements of the ordinance, shall approve the application and notify the applicant immediately of such approval.**
 - (B) Should the application be declined, the applicant shall be notified within three (3) working days of the date of rejection in writing. The disapproval shall identify and detail the reason for disapproval and may make recommendations for corrective action.**
 - (C) Appeal from denial of an application under this article by the Village Administrator may be made to the Commission in writing within thirty (30) days following the date of the rejection. Such appeal shall be filed with the Village Administrator who shall immediately provide copies to the Commission.**
 - (D) The Commission shall consider the application at its next regular meeting, the applicant shall be notified of the time and place of said meeting, and shall be invited to attend.**
 - (E) The Commission shall approve, reject or modify the application based upon its conformance with the purpose and provisions of this section.**
 - (F) Upon approval by the Commission, the application permit will be returned to the Village Administrator and the applicant will be duly notified of the Commission's decision.**
 - (G) Upon rejection or modification by the Commission, the applicant will be notified within three (3) working days of the date of such rejection or conditional approval of the permit application. Notification will be given in writing to the applicant, mailed to the applicant's address listed in the application or personally delivered, defining the reason for disapproval or conditional approval and may make recommendations for compliance.**
 - (H) Appeal from any administrative action or determination by the Commission pursuant to the provisions of this section must be filed with the Village**

Administrator by the applicant within thirty (30) days following the date of the Commission's rejection, conditional approval or other determination. In the event of an appeal, the Governing Body, after receiving a report from the Commission, may confirm, reject, or modify the action of the Commission upon a majority of the Governing Body. Failure of the Governing Body to act within sixty (60) days of the filing of the appeal shall be deemed a determination by the Governing Body concurring with the action of the Commission. Such deemed determination shall be effective on the sixty-first (61st) day after the date of the Commission's determination to reject, conditionally approve, or otherwise act on the application.

(j) Variances:

- (1) The Commission may modify, waive or vary the standard set forth herein in a particular case, and the Commission may impose conditions on such a modification, waiver or variation which it deems appropriate to further the purposes of these outdoor lighting regulations, in either of the following circumstances:

 - (A) Upon finding that strict application of this section would not forward the purposes of this section or otherwise serve the public interest, or that alternatives proposed by the Owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.
 - (B) Upon finding that an outdoor luminaire, or system of outdoor luminaires, required for a baseball, softball, football or soccer field cannot reasonably comply with the standard and provide sufficient illumination of the field for its safe use, as determined by recommended practices adopted by the Illumination Engineering Society of North American for that type of field and activity or other evidence if a recommended practice is not applicable.
- (2) Cost or inconvenience to the applicant will not be a reason for granting a variance.
- (3) A variance may be granted with respect to any provision of this section in accordance with the procedures set forth below:

 - (A) An application for a variance shall be submitted to the Village Administrator stating the circumstances, reasons and conditions of the request. The application for the variance shall include:

 1. Name, address, (including email) and telephone number of the applicant
 2. Description of luminaire, source, or system upon which the variance is requested along with appropriate technical data.
 3. Any other information or data which will aid the Commission's understanding of the applicant's reason for request.

- (B) The Commission shall consider the application at its next regular meeting; the applicant shall be notified of the time and place of said meeting, and shall be invited to attend.
 - (C) Within twenty (20) days of the closing of the hearing on a variance application, the Commission may recommend approval of the application as submitted, or it may recommend approval of the application subject to such modifications or conditions as it deems necessary to accomplish the Purpose and provisions of this section, or it may deny the application. A variance may be revocable or it may be granted for a limited time.
 - (D) Upon rejection or conditional approval by the Commission of an application for variance, the applicant will be notified within three (3) working days of the date of such rejection or conditional approval of the permit application. Notification will be given in writing to the applicant, mailed to the applicant's address listed in the application or personally delivered, defining the reason for disapproval or conditional approval and making recommendations that could bring the application into conformance with the article.
 - (E) The applicant shall pay for the costs to review the application before a permit is issued.
- (4) Appeal from any action or determination by the Commission pursuant to the provisions of this section must be filed with the Village Administrator by the applicant within thirty (30) days following the date of the Commission's rejection, conditional approval or other determination. In the event of an appeal, the Governing Body, after receiving a report from the Commission, may confirm, reverse, or modify the action of the Commission upon a seventy-five percent (75%) majority of the Governing Body. Failure of the Governing Body to act within sixty (60) days of the filing of the appeal shall be deemed a determination by the Governing Body concurring with the action of the Commission. Such deemed determination shall be effective on the sixty-first (61st) day after the date of the Commission's determination to reject, conditionally approve, or otherwise act on the application.

(k) **Prohibitions:**

- (1) The use of searchlights, except by civil authorities, for public safety, is prohibited.
- (2) The use of tracer lights or lights that flash, pulse, rotate or simulate motion is prohibited.
- (3) The use of laser source light or similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.

(1) **Exemptions:**

- (1) The following outdoor lighting and related acts shall be exempt from the requirements of this section:
 - (A) Construction, agricultural, emergency or holiday decorative lighting, provided that the lighting is temporary, and is discontinued within seven (7) days upon completion of the project or holiday for which the lighting was provided.
 - (B) Lighting of the United States of America or Texas flag expressing constitutionally protected speech.
 - (C) Security lighting controlled by sensors which provides illumination for fifteen (15) minutes or less.
 - (D) The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the date of adoption.
 - (E) The replacement of a failed or damaged luminaire which is one of a matching group serving a common purpose.
- (2) Gas lighting is exempt.

(m) **IES Outdoor Lighting Illuminance Levels:**

| Parking Lot Levels of Activity | Maintained Horizontal Illuminance (FC) | | | | |
|---|--|-------------|----------------|-----------------------|-------------------------|
| | General Parking & Pedestrian | | | Vehicle Use Area Only | |
| | <u>Ave.</u> | <u>Min.</u> | <u>U-Ratio</u> | <u>Ave.</u> | <u>Min.U -Ratio</u> |
| High Activity | 3.6 | 0.9 | 4:1 | 2.0 | 0.673:1 |
| Major league athletic events | | | | | |
| Major cultural or civic events | | | | | |
| Regional Shopping Centers (retail space of 300,000 square feet or greater) | | | | | |
| Fast food facilities (only with customer seating capacity of 40 or greater) | | | | | |
| Entertainment theaters | | | | | |
| Automotive dealerships | | | | | |
| Medium Activity | 2.4 | 0.6 | 4:1 | 1.0 | 0.333:1 |
| Community shopping centers (retail space of 5,000 to 299,999 square feet) | | | | | |
| Cultural, civic or recreational events | | | | | |
| Office parks | | | | | |
| Hotels and motels | | | | | |
| Restaurants other than fast food | | | | | |
| Hospital parking | | | | | |
| Transportation parking (airports, commuter lots, etc.) | | | | | |
| Residential complex parking | | | | | |
| Low Activity* | 0.8 | 0.2 | 4:1 | 0.5 | 0.134:1 |
| Neighborhood shopping (retail space of less than 5,000 square feet) | | | | | |
| Industrial employee parking | | | | | |
| Educational facility parking | | | | | |
| Church parking | | | | | |

*Low values are appropriate wherever there is a requirement to maintain security at any time in areas where there is a low level of nighttime activity.

| Roadway Lighting | Maintained Horizontal Illuminance (FC) | |
|-------------------|--|----------------|
| | <u>Ave.</u> | <u>U-Ratio</u> |
| - Freeway Class A | 0.6 – 0.8 | 3:1 |
| - Freeway Class B | 0.4 – 0.6 | 3:1 |
| - Expressway | 0.6 – 1.3 | 3:1 |
| - Major road | 0.6 – 1.6 | 3:1 |
| - Collector road | 0.4 – 1.1 | 4:1 |
| - Local road | 0.3 – 0.8 | 6:1 |

Other outdoor lighting**Maintained Horizontal Illuminance****Floodlit buildings and monuments****Dark Surroundings****Bright Surroundings**

| | | |
|-----------------------|----|----|
| Light surfaces | 5 | 15 |
| Medium light surfaces | 10 | 20 |
| Medium dark surfaces | 15 | 30 |
| Dark surfaces | 20 | 50 |

Loading and unloading platforms 20**Fueling service stations**

| | | |
|---------------|-----|----|
| Approach | 1.5 | 3 |
| Driveway | 1.5 | 5 |
| Pump Island | 20 | 30 |
| Service areas | 3 | 7 |

Storage yards

| | |
|----------|----|
| Active | 20 |
| Inactive | 1 |

**** Dark surrounding refers to areas that are located within, adjacent to, or near rural or residential uses.**

**Retail outdoor lighting
(Maintained Horizontal Illuminance)
(Average Foot-candles)**
Illumination Level of Surrounding Area

High Medium Low

Seasonal

| | | | |
|-----------------|----|----|----|
| Circulation | 10 | 7 | 5 |
| Marketing Area | 30 | 20 | 10 |
| Feature display | 60 | 40 | 20 |

Auto Lots

| | | | |
|-----------------|----|----|----|
| Circulation | 10 | 7 | 5 |
| Merchandise | 50 | 30 | 20 |
| Feature Display | 75 | 50 | 35 |

Building exteriors**Maintained Horizontal Illuminance (Ave. FC)**

| | |
|---|---|
| Entrances | 5 |
| Active (pedestrian and/or conveyance) | 1 |
| Inactive (normally locked, infrequently used) | 5 |
| Vital location or structures | 5 |
| Building surrounds | 1 |

Recommended Maintained Illuminance Levels for Pedestrian Ways
(taken from Table 2 IESNA DG-5-94; Recommended Lighting for Walkways and Class 1 Bikeways)

| Walkway and Bikeway Classification | Minimum Average Horizontal Illuminance Levels on Pavement* (lux/footcandles) | Average Vertical Illuminance Levels for Special Pedestrian Security** (lux/footcandles) |
|--|--|---|
| Sidewalks (Roadside) and Type A Bikeways: | | |
| | | |
| Commercial Areas | 10/1 | 20/2 |
| Intermediate Areas | 5/0.5 | 10/1 |
| Residential Areas | 2/0.2 | 5/0.5 |
| | | |
| Walkways Distant from Roadways and Type B Bikeways: | | |
| | | |
| Walkways and Bikeways | 5/0.5 | 5/0.5 |
| Pedestrian Stairways | 5/0.5 | 10/1 |
| Pedestrian Tunnels | 20/2 | 55/0.5 |

*Uniformity ratios should not be greater than 10:1 maximum to minimum

**For pedestrian identification at a distance. Values are specified at 1.8 meters (6 feet) above the walkway. Scotopically rich light should be used.

Illuminance Levels for Floodlighting Buildings and Monuments

| Area Description | Average Target Illuminance (vertical) (lux/footcandles) |
|---|---|
| Bright Surroundings and Light Surfaces | 50/5 |
| Bright Surroundings and Medium Light Surfaces | 70/7 |
| Bright Surroundings and Dark Surfaces | 100/10 |
| Bright Surroundings and Light Surfaces | 20/2 |
| Dark Surroundings and Medium Light Surfaces | 30/3 |
| Dark Surroundings and Medium Dark Surfaces | 40/4 |
| Dark Surroundings and Dark Surfaces | 50/5 |

Illuminance Levels and Uniformities for Car Dealerships General Lighting

| Area | Maximum Illuminance On Pavement (lux/footcandles) | Maximum to Minimum Ratio |
|--|--|-----------------------------|
| Main Business Districts (highly competitive) | | |
| • Adjacent to roadway | 100-200/10-20 | 5:1 |
| • Other rows | 50-100/5-10 | 10:1 |
| • Entrances | 50-100/5-10 | 5:1 |
| • Driveways | 20-30/2-3 | 10:1 |
| Secondary Business Districts (or small towns) | | |
| • Adjacent to roadway | 50-100/5-10 | 5:1 |
| • Other rows | 25-50/2.5-5 | 10:1 |
| • Entrances | 25-50/2.5-5 | 5:1 |
| • Driveways | 10-20/1-2 | 10:1 |

Note: For lighting feature displays, see the latest version of RP-2 Recommended Practice for Lighting Merchandising Areas.

Service Station or Gas Pump Area Average Illuminance Levels

| Area Description | Average Illuminance on Described Area (lux/footcandles) |
|--|---|
| Approach with Dark Surroundings | 15/1.5 |
| Driveway with Dark Surroundings | 15/1.5 |
| Pump Island Area with Dark Surroundings | 50/5 |
| Building Facades with Dark Surroundings | 20/2 |
| Service Areas with Dark Surroundings | 20/2 |
| Landscape Highlights with Dark Surroundings | 10/1 |
| Approach with Light Surroundings | 20/2 |
| Driveway with Light Surroundings | 20/2 |
| Pump Island Area with Light Surroundings | 100/10 |
| Building Facades with Light Surroundings | 30/3 |
| Service Areas with Light Surroundings | 30/3 |
| Landscape Highlights with Light Surroundings | 20/2 |

(n) General Characteristics of Commonly Used Light sources*:

(This table shows the wide range of parameters available for lamp products. A specific example has been chosen for each source type.)

| Sources Type and color Temperature | Lamp Watts | Initial Lumens | Efficacy (LPW) | Lumen Maintenance ² | Life Hours | CRI |
|---|------------|-------------------|----------------|--------------------------------|------------|-----|
| Standard Incandescent Filament, 2700 K | 100 | 1690 | 17 | 85 | 750 | 100 |
| Tungsten Halogen (Reflector), 2850 K | 90 | 1300 ³ | 14 | 95 | 2500 | 100 |
| Tungsten Halogen (Low Voltage, Reflector), 3000 K-3200 K | 50 | 900 ³ | 18 | 95 | 4000 | 100 |
| Fluorescent T-5 4ft. ⁴ , 3000 K - 4100 K | 28 | 2900 ⁵ | 104 | 95 | 16,000 | 82 |
| High Output Fluorescent T-5 4ft.4, 3000 K - 4000 K | 54 | 5000 ⁵ | 93 | 95 | 16,000 | 82 |
| Fluorescent T-8 4ft. ⁴ , 3000 K - 4100 K | 32 | 2850 | 89 | 85 | 20,000 | 75 |
| Slimline Reduced Wattage 8ft. 3000 K - 5000 K | 60 | 5900 | 98 | 80 | 12,000 | 82 |
| High Output Reduced Wattage 8ft., 3000 K - 6700 K | 95 | 8000 | 84 | 75 | 12,000 | 62 |
| Compact Fluorescent (Long Twin), 3000 K - 4100 K | 39 | 3150 | 81 | 85 | 20,000 | 82 |
| Compact Fluorescent (Double), 2700 K - 6500 K | 26 | 1800 | 70 | 85 | 10,000 | 82 |
| Mercury Vapor, 3000 K - 5700 K | 175 | 7950 | 45 | 60 | 24,000 | 15 |
| Metal Halide, Low Wattage, 3000 K - 3800 K | 100 | 9000 | 90 | 85 | 15,000 | 70 |
| Metal Halide, High Wattage, 3000 K - 4000 K | 400 | 36,000 | 90 | 80 | 20,000 | 65 |
| Ceramic Metal halide (Clear), 3000 K | 100 | 9300 | 93 | 80 ⁶ | 10,000 | 85 |
| High Pressure Sodium, Low Wattage, 1900 K ⁷ | 70 | 6400 | 91 | 90 | 24,000 | 22 |
| High Pressure Sodium High Wattage (Diffuse), 2100 K ⁷ | 250 | 26,000 | 104 | 90 | 24,000 | 22 |
| Low Pressure Sodium, (Monochromatic), 1800 K ⁷ | 90 | 12,750 | 140 | 90 | 16,000 | <2 |

*See manufacturer's catalogs for specific data

¹Efficacy for lamp is shown in lumens per watt. Ballasting is required for all lamps except standard incandescent and tungsten-halogen.

²As defined in the IESNA Lighting Handbook for each light source

³The important performance parameters for reflector lamps are beam spread and maximum center beam intensity (commonly called candlepower)

⁴Exact lamp length is 1149 mm.

⁵Lumen output measured at 350C (950F) ambient

⁶Computed from Manufacturer's approximate lumen output data: initial and mean (mean at 40 percent of lamp rated average life).

⁷These light sources are deficient in blue and green light, which is not reflected in their rated efficacies. Light sources with wide spectral distributions that include blue and green light are more efficient in low light settings than monochromatic sources or sources with little blue or green light.

Refer to Section 2.3 for EPRI LRO/TAC statement on spectral composition.

Sec. 12.138 Home Occupation Regulations

(a) Purpose:

Standards for controlling home occupations are set forth to minimize annoyance and inconvenience to neighboring property owners within residential areas. These standards are intended to allow reasonable and comfortable enjoyment of adjacent and nearby property by their owners and by occupants of neighboring residential dwellings, while providing opportunities for the pursuit of home-based businesses.

(b) Special Provisions for Home Occupations:

- (1) Home occupations shall be permitted as accessory use in single-family residential zoning districts (A, SF-RR, SF-20, SF-PH, and SFA) provided that they comply with all restrictions herein;
- (2) The occupation shall produce no alteration or change in the character or exterior appearance of the principal building from that of a residential dwelling, and performance of the occupation activity shall not be visible from the street;
- (3) Such use shall be incidental and secondary to the use of the premises for residential purposes, and shall not utilize floor area exceeding twenty percent (20%) of the combined gross floor area of dwelling unit and any accessory building(s) that are used for the home occupation, in no case shall the combined floor area utilized for a home occupation exceed five hundred (500) square feet;
- (4) The occupation shall not employ more than one (1) person who is not a member of the household in which the home occupation occurs;
- (5) Not more than two (2) patron or business-related vehicles shall be present at one time, and the proprietor shall provide adequate off-street parking on the property where the use is located;
- (6) The operation of such an occupation shall be between the hours of 8:00 a.m. and 6:00 p.m. for outdoor activities, and between 8:00 a.m. and 10:00 p.m. for indoor activities;
- (7) One commercial vehicle, capacity of one ton or less, according to the manufacturer's classification, may be used, or parked behind the front building line on the property, in connection with the home occupation, but said vehicle may not be parked in the street or within the front yard setback;
- (8) The occupation activity shall not increase vehicular traffic flow beyond what normally occurs within a residential district, and shall not require regular and frequent deliveries by large delivery trucks or vehicles with a rated capacity in excess of one and one-half tons, according to the manufacturer's classification;
- (9) There shall be no outside storage, including trailers, or outside display related to the home occupation use;
- (10) No mechanical or electrical equipment shall be employed on the premises other than that which is customarily found in a home environment, and that which is customarily associated with a hobby or avocation which is conducted solely for pleasure and not for profit or financial gain;

- (11) The home occupation shall not generate noise, vibration, glare, fumes or odors, heat or electrical interference beyond what normally occurs within a residential district;
- (12) The occupation shall not require the use of chemicals on the property that are obnoxious or hazardous to the welfare of the neighborhood;
- (13) The home occupation shall not involve the use of advertising signs or window displays, or any other device that calls attention to the business use of the premises through audio or visual means;
- (14) The occupation shall not offer a ready inventory of any commodity for sale on the premises unless the commodity is made or assembled on-site, including arts and crafts items, handmade clothing; and
- (15) The occupation shall not be harmful or detrimental to the health, welfare and safety of the neighborhood, nor shall it interfere with the comfortable enjoyment of life, property and recreation by residents of the area.

(c) Applicability of Other Regulations:

Home occupations shall also be subject to any and all other provisions of local, State and Federal regulations and laws that govern such uses.

(d) Uses Allowed as Home Occupations:

Subject to the provisions of Sec. 12.138(c) above, home occupations may include the following uses:

- (1) Office facility of an accountant, architect, landscape architect, attorney, engineer, consultant, insurance agent, realtor, broker, or similar profession;
- (2) Author, artist or sculptor;
- (3) Dressmaker, seamstress or tailor;
- (4) Music or dance teacher, or similar types of instruction, provided that instruction shall be limited to no more than six (6) pupils at a time;
- (5) Individual tutoring and home schooling;
- (6) Millinery;
- (7) Office facility of a minister, rabbi, priest or other clergyman;
- (8) Home crafts, such as rug weaving, model making, etc.;
- (9) Office facility of a salesman, sales or manufacturer's representative, provided that no retail or wholesale transactions or provision of services are personally and physically made on the premises;

- (10) Repair shop for small electrical appliances, cameras, watches and clocks, and other small items, provided that the items can be carried by one person without using special equipment, and provided that the items are not equipped with an internal combustion engine;
- (11) Food preparation establishments such as cake making, decorating or catering, provided that there is no on-premises consumption by customers, and provided that all aspects of the business comply with all State and local health regulations;
- (12) Registered Family Homes, in compliance with applicable State laws, which are incorporated herein by reference, with no more than six (6) children;
- (13) Barber shop or beauty salon or manicure studio, provided that no more than one customer is served at a time;
- (14) Swimming lessons and water safety instruction, provided that such instruction involves no more than six (6) pupils at any one time; and
- (15) Bed and Breakfast Facility, provided that no more than six (6) guests are accommodated or served at a time.

(e) Uses Prohibited as Home Occupations:

Home occupations shall not, in any event, be deemed to include the following uses:

- (1) Animal hospitals or clinics, commercial stables having more than two (2) horses per acre, or some portion thereof, or kennels;
- (2) Schooling or instruction, except swimming or water safety classes and home schooling, with more than six (6) pupils at a time;
- (3) Restaurants or on-premises food or beverage, including Private Clubs, consumption of any kind, except for limited food or meal consumption associated with the operation of a licensed registered family home or a bed and breakfast facility;
- (4) Automobile, boat or trailer paint or repair shop; small engine or motorcycle repair shop; welding shop; large household appliance repair shop; or other similar type of business;
- (5) Office facility for a doctor, dentist, veterinarian or other medical-related profession;
- (6) On-premises retail or wholesale sales of any kind, except for items that are produced entirely on the premises in conformance with this article, and except for occasional garage sales;
- (7) Commercial clothing laundering or cleaning;
- (8) Mortuaries or funeral homes;
- (9) Trailer, vehicle, tool or equipment rentals;

- (10) Repair shops or services, except as specifically provided in Sec. 12.138(d)(10) above;
- (11) Drapery or furniture upholstery shops;
- (12) Antique, gift or specialty shops;
- (13) Repair shops for any items having internal combustion engines; and
- (14) Any use that would be defined by the Building Code as an Assembly, Factory or Industrial, Hazardous, Institutional or Mercantile occupancy.

(f) Home Occupation Uses Not Classified:

Any use that is not either expressly allowed nor expressly prohibited by Sec. 12.138(d) and Sec. 12.138(e), respectively, is considered prohibited, unless and until such use is classified by amendment to this article by the Governing Body, subsequent to an affirmative recommendation by the Commission.

(g) Effect of Sec. 12.106 Upon Existing Home Occupations:

- (1) Any home occupation that was legally in existence as of the effective date of this article and that is not in full conformity with the provisions herein shall be deemed a legal nonconforming use, and is subject to the provisions of Sec. 12.106 provided that the owner or proprietor of such home occupation register his or her business with the Village within ninety (90) days of the effective date of this article, and provided that the home occupation use was not in violation of any other local, State or Federal law or regulation on that date. Proof of the existence of such home occupation use prior to the effective date of this article shall be required upon registration.
- (2) Any home occupation that was legally in existence as of the effective date of this article and that conforms with the provisions herein shall be hereby authorized to continue, provided that the home occupation use is registered with the Village as described in Sec. 12.138(g)(1) above.

Sec. 12.139 Definitions

For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall also include the future tense; words used in the masculine gender shall also include the feminine gender; words used in the singular number shall also include the plural number; and words in the plural number shall also include the singular number, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory. For any term or use not defined herein, Webster's Dictionary (latest edition) shall be used.

Accessory Building (Residential) - In a residential district, a subordinate building that is attached or detached and is used for a purpose that is customarily incidental to the main structure but not involving the conduct of a business. The building area must be significantly less than that of the main structure. Examples may include, but are not limited to, the following: a private garage for automobile storage, tool shed, greenhouse as a hobby, home workshop, children's playhouse, storage building or garden shelter.

Accessory Building (Business or Industry) - In the nonresidential districts, a subordinate building to the main building that does not exceed the height of the main building and does not exceed fifty percent (50%) of the floor area of the main building, and that is used for purposes accessory and incidental to the main use (see "Accessory Use").

Accessory Use - A use that is customarily incidental, appropriate and subordinate to the principal use of land or building(s) and that is located upon the same lot therewith. The land and building area that is used for the accessory use must be significantly less than that used for the primary use, and the gross receipts that is derived from the accessory use must be significantly less than that derived from the primary use.

Airport or Landing Field - A place where aircraft can land and take off that is usually equipped with hangars, facilities for aircraft refueling and repair, and various accommodations for passengers.

Alley - A minor right-of-way that is dedicated to public use and which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

Ambulance Service - Provision of private emergency transportation which may include mobile medical care, and which may include storage and maintenance of vehicles.

Amusement Arcade (Also Video Arcade) - Any building, room, place or establishment of any nature or kind, and by whatever name called, where more than ten percent (10%) of the public floor area is devoted to three (3) or more amusement devices that are operated for a profit, whether the same is operated in conjunction with any other business or not, including but not limited to such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices. However, the term "amusement device," as used herein, shall not include musical devices, billiard tables which are not coin-operated, machines that are designed exclusively for small children, and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports.

Amusement, Commercial (Indoor) - An amusement enterprise that is wholly enclosed within a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line, and that provides activities, services and instruction for the entertainment of customers or members, but not including amusement arcades. Uses may include, but are not limited to, the following: bowling alley, ice skating rink, martial arts club, racquetball or handball club, indoor tennis courts or club, indoor swimming pool or scuba diving facility, and other similar types of uses.

Amusement, Commercial (Outdoor) - An amusement enterprise offering entertainment or games of skill to the general public for a fee wherein any portion of the activity takes place outdoors and including, but not limited to, a golf driving range, archery range, miniature golf course, batting cages, go-cart tracks, amusement parks, and other similar types of uses.

And - Where necessary to effectuate the intent of this Article or to prevent an ambiguity, absurdity, or mistake, the words "and" and "or" shall be interchangeable.

Antique Shop, Sales Indoors - A retail establishment engaged in the selling of works of art, furniture or other artifacts of an earlier period, with all sales and storage occurring inside a building.

Art Gallery or Museum - An institution for the collection, display or distribution of objects of art or science, and which is typically sponsored by a public or quasi-public agency and generally open to the public.

Assisted Living Facility - A congregate residence facility for ten (10) or more persons over 55 years of age, regardless of legal relationship, who need limited assistance with daily living activities. A limited number of support services such as meals, laundry, housekeeping, transportation, social/recreational activities and hairdressing, may be provided or associated with the assisted living facility. Units may be attached or detached, single- or double-occupancy, and may include limited or full kitchen facilities. Full-time medical or nursing care is not typically provided by the facility, but may be privately arranged for by individual residents on a part-time or temporary basis.

Auto Laundry or Car Wash - Washing, waxing or cleaning of automobiles or light duty trucks.

- (1) **Attended Auto Laundry or Car Wash** - The owner of the vehicle does not actually wash the vehicle. Instead, he either leaves the vehicle and comes back to retrieve it later, or he waits in a designated area while employees of the car wash facility vacuum, wash, dry, wax and/or detail the vehicle for a fee.
- (2) **Unattended Auto Laundry or Car Wash** - The owner of the vehicle causes the vehicle to become washed. One type of unattended car wash facility utilizes automated self-service wash bays and apparatus in which the vehicle owner inserts money or tokens into a machine, drives the vehicle into the wash bay, and waits in the vehicle while it is being washed. The other type of unattended facility is comprised of wand-type self-service wash bays in which the vehicle owner drives the vehicle into the wash bay, gets out of the vehicle, and hand washes the vehicle with a wand-type apparatus by depositing coins or tokens into a machine.

Auto Finance and Leasing - Leasing of automobiles, motorcycles, and light load vehicles but no outside storage.

Auto Parts and Accessory Sales (Indoors) - The use of any building or other premise for the primary inside display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles.

Auto Rental - Storage or renting of automobiles and light trucks.

Auto Sales (New) - Retail sales of new automobiles or light load vehicles, including, as a minor part of the business, the sales of used automobiles or light load vehicles and the service of new or used vehicles.

Auto Sales (Used) - Retail sales, or offering for sale, used automobiles or light load vehicles.

Auto Storage or Auto Auction - The storage or impoundment, on a lot or tract which is paved in accordance with parking lot paving requirements set forth in this article, of operable automobiles for the purpose of holding such vehicles for sale, distribution and/or storage. This definition shall not include the storage of wrecked or inoperable vehicles (see "Wrecking Yard").

Automobile - A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, light duty trucks and sport utility vehicles, vans and mini-vans, motor scooters and motorcycles.

Automobile Accessory Installation (Minor) - Minor installation of minor automobile accessories such as car alarms, radio and stereo equipment, window tinting, pin striping, cellular telephones and similar accessories.

Automobile Repair Garage - An establishment providing major or minor automobile repair services to all motor vehicles except heavy load vehicles.

Automobile Repair, Major - General repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision repair services including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rustproofing; those uses listed under "Automobile Repair, Minor"; and other similar uses.

Automobile Repair, Minor - Minor repair or replacement of parts, tires, tubes and batteries; diagnostic services; minor maintenance services such as grease, oil, spark plug and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses and brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems; and other similar minor services for motor vehicles except heavy load vehicles, but not including any operation named under "Automobile Repair, Major" or any other similar use.

Automotive Gasoline or Motor Fuel Service Station - Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of automotive fuels, lubricants and automobile accessories, including those operations listed under "Automobile Repair, Minor". Vehicles which are inoperative or are being repaired may not remain parked outside these facilities for a period greater than forty-eight (48) hours.

Bakery or Confectionery (Retail) - A facility less than fifteen hundred (1,500) square feet for the production or sale of baked goods.

Bakery or Confectionery (Wholesale or Commercial) - A manufacturing facility over fifteen hundred (1,500) square feet for the production and distribution of baked goods and confectioneries to retail outlets.

Ballroom Dancing - An establishment open to the general public for dancing. Any sales of alcoholic beverages for on-premise consumption shall be subject to requirements and use restrictions for private clubs -- see definition for "Private Club."

Bank, Savings and Loan, or Credit Union - An establishment for the custody, loan, exchange or issue of money, the extension of credit, or facilitating the transmission of funds.

Barn - A structure intended for the purpose of storing farming and ranching related equipment or housing livestock; such a structure shall be no more than two hundred forty (240) square feet in size, and shall conform to all construction and design standards of the district in which it is constructed.

Basement (or Cellar) - A portion of a building that is partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.

Bed and Breakfast Inn or Facility - a dwelling occupied as a permanent residence by an owner or renter which serves breakfast and provides or offers sleeping accommodations in not more than five (5) rooms for transient guests for compensation.

Block - A piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the Village Administrator, shall determine the outline of the block.

Boarding or Rooming House - A dwelling other than a hotel, where for compensation and by prearrangement for definite periods, lodging and meals are provided.

Governing Body - The governing body of the Village.

Building - Any structure intended for shelter, occupancy, housing or enclosure for persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

Building Height - The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of the building (refer to Sec. 12.135(d)(2)).

Building Line - A line parallel, or approximately parallel, to any lot line at a specific distance therefrom, marking the minimum distance from the lot line that a building may be erected (see Illustration 6).

Building, Main or Primary - A building in which the principal use of the lot on which it is situated is conducted. In a residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.

Building Materials and Hardware Sales (Indoor or Outdoor) - Materials, tools, and/or hardware customarily used in the construction of buildings and other structures, including facilities for storage of materials for retail sales. Sometimes referenced as a "home improvement center." "Outdoor" means the storage of materials and products outside of the main building.

Building Official - The inspector or administrative official charged with responsibility for issuing permits and enforcing the Zoning Ordinance and Building Code of the Village.

Building Site - See "Lot" definition.

Bus Station or Terminal - Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.

Caretakers' or Guards' Residence - A residence located on a premises with a main residential or nonresidential use and occupied only by a caretaker or guard employed on the premises, such as a residence for guard in a private street development, residence for a guard or manager or caretaker for a self-storage facility or a restricted access business park.

Carnival, Circus or Tent Service (Temporary) - Outdoor or indoor commercial amusement provided on a temporary basis.

Carport - A structure that is open on a minimum of two sides and designed or used to shelter not more than three vehicles and not to exceed twenty-four feet on its longest dimension. Also called "covered parking area."

Cemetery or Mausoleum - Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

Cemetery, Animal - Same as cemetery except only for the burial of dead animals.

Certificate of Occupancy - An official certificate issued by the Village through the Building Official which indicates conformance with the zoning regulations and building codes and which authorizes legal use of the premises for which it is

issued.

Child Care Center (or Day Care Center) - A commercial institution or place designed for the care or training of twelve (12) or more unrelated children under fourteen (14) years of age for less than twenty-four (24) hours a day.

Church, Rectory or Temple - A building for regular assembly for religious worship which is used primarily and designed for such purpose and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns or rabbis on the premises, that is tax exempt as defined by State law. For the purposes of this article, Bible study and other similar activities which occur in a person's primary residence shall not apply to this definition.

Civic Center - A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, food service, convention or entertainment facilities owned or operated by a municipality.

Cleaning Plant (Commercial/Wholesale) - An industrial facility where fabrics are cleaned with substantially nonaqueous organic solvents on a commercial or wholesale basis.

Cleaning Shop or Laundry (Small Shop, Pick-Up and Self Service) - A custom cleaning shop not exceeding two thousand five hundred (2,500) square feet of floor area which may include customer self-service laundry and cleaning.

College or University - An academic institution of higher learning, accredited or recognized by the State and covering a program or series of programs of academic study.

Commercial Amusement (Indoor) - See Amusement, Commercial (Indoor).

Commercial Amusement (Outdoor) - See Amusement, Commercial (Outdoor).

Community Center (Public) - A building or complex of buildings that house cultural, recreational, athletic, food service or entertainment facilities owned or operated by a governmental agency or private nonprofit agency.

Community Home - A place where not more than six (6) physically or mentally impaired or handicapped persons are provided room and board, as well as supervised care and rehabilitation by not more than two (2) persons as licensed by the Texas Department of Mental Health and Mental Retardation (also see Chapter 123 of the Texas Local Government Code).

Comprehensive Plan - Document adopted by the Village that consists of graphic and textual policies which govern the future development of the Village and which consists of various components governing specific geographic areas and functions and services of the Village.

Concrete or Asphalt Batching Plant (Permanent) - A permanent manufacturing facility for the production of concrete or asphalt.

Concrete or Asphalt Batching Plant (Temporary) - A temporary manufacturing facility for the production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

Continuing Care Retirement Community - A housing development designed to provide a full range of accommodations for adults of age 55 or more, including independent living, assisted living and skilled full-time nursing or medical care. Residents may move from one level to another as their needs change.

Convenience Store With (or Without) Gasoline Sales - Retail establishment selling food for off-premises consumption and a limited selection of groceries and sundries, including possibly gasoline, if pumps are provided. Does not include or offer any automobile repair services.

Copy Shop or Printing - An establishment which reproduces, in printed form, individual orders from a business, profession, service, industry or government organization and occupies less than four thousand (4,000) square feet.

Contractor's Shop with Outside Storage Yard - A building, part of a building, or land area for the construction or storage of materials, equipment, tools, products, and vehicles.

Country Club (Private) - A land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

Court - An open, unobstructed space, bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

Coverage - The lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.

Custom Personal Service Shop - Tailor, dressmaker, shoe shop, barber shop, beauty shop or similar shop offering custom service.

Day Camp for Children - A facility arranged and conducted for the organized recreation and instruction of children including outdoor activities on a daytime basis.

Density - The total number of residential buildings allowed upon a given tract of land usually expressed in total number of units per gross acres or net acre.

Detached - Having no physical connection above the top of the floor line of the first floor with any other building or structure.

Distribution Center - Building or facility used for the storage and distribution of wholesale items/products.

Drapery or Furniture Upholstering Shop - An establishment for the production, display and sale of draperies and soft coverings for furniture.

Dwelling - Any building or portion thereof, which is designed or used as living quarters for one or more families.

Dwelling, Single Family Attached (Townhouse) - See "Single Family Dwelling (Attached)."

Easement - A grant of one or more of the property rights by the property owner to or for the use by the public, a corporation or another person or entity.

Educational Facilities - Public and private primary, secondary and post-secondary educational facilities offering instruction in the branches of learning and study required to be taught by the Texas Education Agency; and such federally funded educational programs for preschool children as the Head Start Program.

Electrical Substation (High Voltage Bulk Power) - A subsidiary station in which electric current is transformed.

Enclosed Building - A structure which is floored, roofed and surrounded by outside walls, which contains no opening larger than one hundred twenty (120) square feet in area normally open to the air and which contains no series of openings forming a divided opening larger than one hundred twenty (120) square feet in area normally open to the air.

Fairgrounds or Exhibition Area - An area or space either outside or within a building for the display of topic-specific goods or information.

Family - One or more persons related by blood, marriage, or adoption; or a group not to exceed four (4) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit.

Family Home (Child Care in Place of Residence) - A facility that regularly provides care in the caretaker's own residence for not more than six (6) children under fourteen (14) years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six (6) additional elementary school siblings of the other children given care. However, the number of children, including the caretaker's own, provided care at such facility shall not exceed twelve (12) at any given time. No outside employment is allowed at the facility. This facility shall conform to Chapter 42 of the Human Resources Code of the State of Texas, as amended, and in accordance with such standards as may be promulgated by the Texas Department of Human Resources.

Farm, Ranch, Garden, Crops or Orchard - An area used for growing usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Feed and Grain Store - An establishment for the selling of corn, grain and other food stuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery.

Fence - An artificially constructed structure of wood, masonry, stone, etc.(solid or otherwise), which is a barrier and used as a boundary or means of protection, confinement, or concealment

Fire, Police or Municipal Building - Any public service building of the municipal government including a library or Village Municipal Building, but excluding storage yards, utility shops and equipment centers.

Flood Plain - An area of land subject to inundation by a 100-year frequency flood as determined using standard engineering practices and generally as shown on the FIRM Flood Insurance Rate Map of the Village.

Floor Area, Gross - The total gross square feet of floor space within the outside dimensions of a building including each floor level, but excluding carports, residential garages, and breezeways.

Floor Area Ratio (FAR) - The floor area of a main building or buildings on a lot, divided by the lot area (see Illustration 1).

Florist Shop - An establishment for the display and retail sale of flowers, small plants and accessories.

Food Processing - A manufacturing or light industrial use that primarily deals with the processing and packaging of food, such as dairy or grain products that are intended for human consumption, but which are not typically sold in volume to end users on the premises. Incidental retail sales of food products, including bread and baked goods, dairy products such as cheese, created and packaged on the premises may be allowed as an accessory use.

Food Store - A retail business establishment that displays and sells consumable goods that are not to be eaten on the premises. Prepared food may be sold only as a secondary or accessory use.

Footprint - The horizontal area as seen in plan view, measured from outside of all exterior walls and supporting columns; the amount of a structure that touches the ground surface.

Franchised Private Utility (Not Listed) - A utility such as one distributing heat, chilled water, closed circuit television or similar service and requiring a franchise to operate in the Village.

Fraternal Organization, Lodge, Civic Club, or Union - An organized group having a restricted membership and specific purpose related to the welfare of the members such as Elks, Masons, Knights of Columbus, or a labor union.

Front Yard - See "Yard, Front."

Funeral Home or Mortuary - A place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Furniture, Home Furnishings or Appliance Stores - This group includes retail stores selling new goods for furnishing the home including, but not limited to furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances.

Furniture Store (New and Used) - Same as above except sales may include used items.

Garage, Private - An accessory building enclosed on at least three (3) sides, or a part of a main building, used for storage of automobiles and used solely by the occupants and their guests. Also called "enclosed parking space."

Garage/Accessory Dwelling - A residential dwelling unit attached to or over a garage but not attached to the main residential structure.

Garage Conversion - The alteration of an enclosed attached or detached accessory building, including a garage that meets the required parking standards for residential districts, to an air-conditioned living space with stationary fixed walls.

Garden Shop - A facility which is engaged in the selling of flowers, ornamental plants, shrubs, trees, seeds, garden and lawn supplies, and other materials used in planting and landscaping, but not including cultivation and propagation activities outside a building.

Gasoline Service or Filling Station - See "Automotive Gasoline or Motor Fuel Service Station."

General Commercial Plant - Establishments other than personal service shops for the treatment or processing of products as a service on a for-profit basis including, but not limited to, newspaper printing, laundry plant, or cleaning and dyeing plants.

General Manufacturing - See "Industrial, Manufacturing."

General Retail Stores - This major group includes retail stores which sell a number of lines of primarily new merchandise including but not limited to dry goods, apparel and accessories, furniture and home furnishings, small wares, small appliances, hardware, and food. The stores included in this group are known as department stores, variety stores, general merchandise stores, general stores, etc. (also see "Retail Shop").

Golf Course - An area of twenty (20) acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses.

Group Day-Care Home - Means a facility that provides care for seven (7) to twelve (12) children under fourteen (14) years of age less than 24 hours a day.

Gymnastic Or dance Studio - A building or portion of a building used as a place of work for a gymnast or dancer or for instructional classes in gymnastics or dance.

Hauling or Storage Company - See "Motor Freight Company."

Heavy Load Vehicle - A self-propelled vehicle having a manufacturer's recommended Gross Vehicle Weight (GVW) of greater than 16,000 pounds (including trailers), such as large recreational vehicles (originally manufactured as RVs, not converted), tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "Heavy Load Vehicle" unless specifically stated otherwise.

Heavy Machinery Sales and Storage - A building or open area used for the display, sale, rental or storage of heavy machinery, tractors or similar machines, or a group of machines which function together as a unit.

Heliport - An area of land or water or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

Height (of Structures) - The height shall be measured from the highest parapet or roof ridge to natural grade or finish grade at the lowest point adjacent to the building exterior, whichever yields the greatest height (refer to Sec. 12.135(d)).

Helistop - The same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

Home for Aged, Residence - A home where elderly people are provided with lodging and meals without nursing care being a primary function.

Home Occupation - An occupation carried on in a dwelling unit, or in an accessory building to a dwelling unit, by a resident of the premises, which occupation is clearly incidental and secondary to the use of the premises for residential purposes.

Hospital (Acute Care) - An institution where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life, and which is licensed by the State of Texas.

Hospital (Chronic Care) - An institution where those persons suffering from illness, injury, deformity or deficiencies pertaining to age are given care and treatment on a prolonged or permanent basis and which is licensed by the State of Texas.

Household Appliance Service and Repair - The maintenance and rehabilitation of appliances that are customarily used in the home including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances and vacuum cleaners, but not including appliances or equipment which have internal combustion engines.

Household Care Facility - A dwelling unit which provides residence and care to not more than nine (9) persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster or financial setbacks, living together with not more than two supervisory personnel as a single housekeeping unit. This definition is subject to Art. 4442c-4 (Personal Care Facility Licensing Act) V.A.C.S. (Tex.) and Art. 1011n (Community Homes for Disabled Persons Location Act) V.A.C.S. (Tex.) as they presently exist or may be amended in the future.

Household Care Institution - A facility which provides residence and care to ten or more persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; convalescing from illness; or temporarily homeless due to fire, natural disaster, or financial setback together with supervisory personnel.

Incidental or Accessory Retail and Service Uses - Any use different from the primary use but which compliments and/or supplements the primary use, such as a sundries shop that serves tenants of an office building or hospital. Incidental shall mean an area which constitutes not more than fifteen percent (15%) of the main use.

Industrial, Manufacturing - Establishments engaged in the manufacturing or transformation of materials into new products. These establishments are usually described as plants and factories, and characteristically use power driven machines and materials handling equipment. Manufacturing production is usually carried on for the wholesale market, rather than for direct sale to the domestic consumer.

Industrialized Home or Modular Home - Means a structure or building module as defined, under the jurisdiction and control of the Texas Department of Labor and Standards and that is installed and used as a residence by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include a mobile home as defined in the Texas Manufactured Housing Standards Act (Article 5221f V.A.C.S.); nor does it include building modules incorporating concrete or masonry as the primary structural component.

Institution for Alcoholic, Narcotic or Psychiatric Patients - An institution offering out-patient treatment to alcoholic, narcotic or psychiatric patients.

Intensity (of Land Use) - An assessment of the relative level of activity of land use, including, but not limited to, type of land use, floor area ratio, building coverage ratio, or percent of impervious coverage.

Kennels (Indoor Pens) - An establishment with indoor pens in which more than four (4) dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained and/or sold for commercial purposes.

Kennels (Outdoor Pens) - An establishment with outdoor pens in which more than four (4) dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for commercial purposes.

Kindergarten or Nursery School (Private) - An establishment where more than three (3) children are housed for care or training during the day or portion thereof.

Kiosk - A small, free-standing, one-story accessory structure having a maximum floor area of one hundred (100) square feet and used for retail purposes, such as automatic teller machines or the posting of temporary information or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of fifty (50) square feet.

Kitchen, Residential - Generally, that portion of a residential dwelling that is devoted to the preparation or cooking of food for the purpose of consumption by residents of the dwelling. A kitchen, as referred to within this article, generally indicates the presence of complete cooking facilities as differentiated from a "kitchenette" which provides very limited cooking facilities limited to a single-burner hot plate, under-counter refrigerator and microwave oven.

Laboratory Equipment Manufacturing - A facility that makes or produces equipment or products used for research or testing.

Laboratory, Scientific or Research - An establishment that engages in research, testing or evaluation of materials or products, but not medical-related (see "Medical Facilities -- Medical Laboratory").

Landscaping - Material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms, and non-living durable materials that are commonly used in landscaping such as, but not limited to, rocks, pebbles, sand, walls or fences, but excluding paving.

Laundromat (or Self-Serve Washateria) - A facility where patrons wash, dry or dry clean clothing and other fabrics in machines that are operated by the patron.

Light Load Vehicle - A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than 16,000 pounds and having no more than two axles, such as pick-up trucks, sport utility vehicles, vans and mini-vans, recreational vehicles (less than thirty-two (32) feet in length), campers and other similar vehicles but not including automobiles and motorcycles.

Light Manufacturing or Industrial Use - Manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

Loading Space - An off-street space or berth used for the delivery and loading or unloading of vehicles.

Local Utility Line - The facilities provided by a municipality or a franchised utility company for distribution or collection of gas, water, surface drainage water, sewage, electric power or telephone service, including pad- and pole-mounted transformers.

Lot - A platted parcel of land that is occupied or intended to be occupied by one main building, or a group of main buildings, and any accessory building(s), which includes such parking, landscaping and open space as are required by this article or other laws or ordinances, and also which has its principal frontage upon a public street. (See Illustrations 6, 7 and 8).

Lot Area - The total area, measured on a horizontal plane, included within lot lines.

Lot, Corner - A lot which has at least two adjacent sides abutting for their full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five degrees (135°). (See Illustration 9).

Lot Depth - The mean horizontal distance between the front and rear lot lines. (See Illustration 7).

Lot, Double Frontage - A lot having frontage upon two (2) non-intersecting streets, as distinguished from a corner lot. (See Illustration 5).

Lot, Flag - A lot having access to a street by means of a parcel of land generally having a depth greater than its frontage, but not less than thirty-five feet (35'). Flag, or panhandle, lots are typically discouraged.

Lot, Interior - A lot other than a corner lot.

Lot Frontage - That dimension of a lot or portion of a lot abutting onto a street, excluding the side dimension of a corner lot.

Lot Line, Front - The narrower side of the lot abutting a street. Where two lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line, and lies along the same general directional orientation as the front and rear lot lines, said line shall be considered a front lot line in establishing minimum setback lines. (See Illustration 6).

Lot, Key - A corner lot whose exterior side is adjacent to the front yard of another lot.

Lot Line, Rear - The lot line farthest from and most parallel to the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero. (See Illustration 8).

Lot Line, Side - Any lot line not the front or rear lot line.

Lot Lines or Property Lines - The lines bounding a lot as defined herein.

Lot of Record - A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Travis County.

Lot Width - The horizontal distance measured between side lot lines parallel to the front lot line, and measured from the point on the building line which is closest to the front lot line. (See Illustration 6).

Main Building - The building or buildings on a lot which are occupied by the primary use.

Manufactured Home Display or Sales (New) - The offering for sale, storage, or display of new manufactured housing units, including mobile homes or trailers, HUD-Code homes and industrialized homes, on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

Manufactured Home Display or Sales (Used) - The offering for sale, storage, or display of previously owned (used), movable manufactured housing units, including mobile homes or trailers and HUD-Code homes on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

● **Manufactured Housing** - Any one of three types of prefabricated housing products which are typically manufactured or assembled at a location other than the end user's permanent site, and which are regulated by the Texas Manufactured Housing Standards Act (Article 5221f and 5221f-1, V.A.C.S.). For the purpose of this article, there are three types of manufactured homes:

- (1) **Mobile Home** - A movable dwelling designed to be transported on its own chassis on the highway (either intact or in major sections) by a prime mover, which is constructed with a base section so as to be independently self-supporting, and which does not require a permanent foundation for year-round living. A mobile home is also defined as any manufactured home that was constructed prior to June 15, 1976.
- (2) **HUD-Code Manufactured Home** - A movable dwelling designed to be transported on the highway, either intact or in major sections, by a prime mover, which can be used as a residential dwelling either with or without a permanent foundation. A HUD-Code manufactured home is also defined as a movable manufactured home that was constructed after June 15, 1976.
- (3) **Industrialized Home (also called Modular Prefabricated Structure or Modular Home)** - A structure or building module as defined under the jurisdiction and control of the Texas Department of Labor and Standards, that is transportable in one or more sections on a temporary chassis or other conveyance device, and that is designed to be installed and used by a consumer as a fixed residence on a permanent foundation system. The term includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. The term does not include mobile homes or HUD-Code manufactured homes as defined in the Texas Manufactured Housing Standards Act (Article 5221f, V.A.C.S.). Industrialized homes must meet all applicable local codes and zoning regulations that pertain to construction of traditional site constructed ("stick built") homes.

● **Masonry Construction** - That form of construction comprised of brick, stone, granite, marble, concrete, hollow clay tile, concrete block or tile, brick veneer, exterior plasters, including stucco, or other similar building units or materials or combination of these materials laid up unit by unit and set in mortar.

Mausoleum - Property used for the interring of the dead and where bodies are interred above ground in staked vaults.

Medical Facilities:

- (1) **Medical Clinic or Office** - A facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients provided that patients are not kept overnight except under emergency conditions.
- (2) **Dental Office or Doctors Office** - Same as medical clinic.
- (3) **Hospital** - An institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.
- (4) **Massage Establishment** - Any place of business in which massage therapy is practiced by a massage therapist, as defined and licensed by State law. "Massage therapy," as a health care service, means the manipulation of soft tissue for therapeutic purposes. The term includes, but is not limited to, effleurage, petrissage, tapotement, compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower or cabinet baths. Equivalent terms for "massage therapy" are massage, therapeutic massage. Massage and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure

for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

- (5) **Public Health Center** - A facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.
- (6) **Sanitarium** - An institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.
- (7) **Surgical Out-Patient Facility** - An establishment offering any type of surgical procedures and related care which, in the opinion of the attending physician, can be performed safely without requiring inpatient overnight hospital care and exclusive of such surgical and related care as licensed physicians ordinarily may elect to perform in their private offices.
- (8) **Medical Laboratory** - An indoor establishment that includes laboratories and/or experimental equipment for medical testing, prototype design and development, and product testing.

Mini-Warehouse - Small individual storage units for rent or lease, restricted solely to the storage of items. The conduct of sales, business or any other activity within the individual storage units, other than storage, shall be prohibited.

Minor Medical Emergency Clinic - See "Medical Clinic or Office."

Mobile Home Park (also Trailer Park or RV Park) - A parcel of land not less than three (3) acres nor greater than thirty-five (35) acres which is designed, improved, or intended to be used for short- or long-term occupancy by mobile homes/trailers or recreational vehicles, including travel trailers, in designated spaces. The facility may include a residence for the owner or manager of the premises, utility hook-ups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities.

Mobile Home Space - A plot of ground within a mobile home park, trailer park, RV park, or mobile home subdivision which is designed for the accommodation of one mobile home, trailer or RV unit.

Mobile Home Subdivision - A parcel of land which is designed, platted, improved and intended for the long-term placement of individually owned mobile home units or HUD-Code manufactured homes on platted lots which can be purchased outright by the owners of the mobile home units. Facility may include a residence for the owner or manager of the premises, utility hook-ups, accessory structures, playgrounds and open space areas, fenced yard areas for pets, and other similar amenities.

Model Home - A dwelling in a developing subdivision, located on a legal lot of record, that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built within the same subdivision.

Motel or Hotel - A facility offering temporary lodging accommodations or guest rooms on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities. A guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

Motorcycle - A usually two-wheeled, self-propelled vehicle having one or two saddles or seats, and which may have a sidecar attached. For purposes of this article, motorbikes, all-terrain vehicles (ATVs), motorscooters, mopeds and similar vehicles are classified as motorcycles.

Motorcycle Sales and Repair - The display, sale or servicing, including repair work, of motorcycles.

Motor Freight Company - A company using trucks or other heavy load vehicles to transport goods, equipment and similar products. Includes companies that move residential or commercial belongings.

Motor Vehicle - Any vehicle designed to carry one or more persons which is propelled or drawn by mechanical power, such as automobiles, vans, trucks, motorcycles and buses.

Multiple-Family Dwelling - Three or more dwelling units on a single lot designed to be occupied by three or more families living independently of one another, exclusive of hotels or motels. Includes three-family units (triplex) and four-family units (quadriplex), as well as traditional apartments.

Municipal Facility or Use - Any area, land, building, structure or facility which is owned, used, leased or operated by the Village.

Nonconforming Use - A building, structure, or use of land lawfully occupied as of the effective date of this article or amendments thereto, but which does not conform to the use regulations of the district in which it is situated.

Nonpoint Source Pollution Control Ordinance - Article 11.100 of the Code of Ordinances of the Village of Bee Cave, Texas, as amended from time to time.

Nursery - An establishment, including a building, part of a building or open space, for the growth, display or sale of plants, shrubs, trees and other materials used in indoor or outdoor planting.

Nursing, Convalescent or Rest Home - See "Skilled Nursing Facility."

Occupancy - The use or intended use of the land or buildings by proprietors or tenants.

Offices, Professional and General Business - A room or group of rooms used for the provision of executive, management or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

Office Center - A building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry, government or similar entity, that may include ancillary services for office workers such as a coffee shop, newspaper stand, sundries shop and hair or nail salon.

Office Showroom - An establishment with no more than twenty-five percent (25%) of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

Office Warehouse - An establishment with more than twenty-five percent (25%) of the total floor area devoted to storage and warehousing, but not generally accessible to the public.

Officially Approved Place of Access - Access to a property, other than from a dedicated street, which is approved by the Village.

Off-Street Parking Incidental to Main Use - Off-street parking spaces provided in accordance with the requirements of this article, located on the lot or tract occupied by the main use or within one hundred fifty feet (150') of such lot or tract, and

located within the same zoning district as the main use or in an adjacent parking district.

On-Site Sewage Facility Rules - Article 11.200 of the Code of Ordinances of the Village of Bee Cave, Texas, as amended from time to time.

Or - Where necessary to effectuate the intent of this article or to prevent an ambiguity, absurdity, or mistake, the words "and" and "or" shall be interchangeable.

Outside Display - Outside temporary display of finished goods that are specifically intended for retail sale but not displayed outside overnight.

Outside Storage - The keeping, displaying or storing, outside a building, of any goods, materials, merchandise or equipment on a lot or tract for more than twenty-four (24) hours. Also referred to as open storage.

Paint Shop - A commercial establishment where painting services are performed, but not automotive-related painting services, which would be included under "Automobile Repair, Major."

Parcel - Any unplatted tract of land, or any portion of an unplatted tract of land.

Park or Playground (Private) - See "Private Recreation Facility."

Park or Playground (Public) - See "Public Recreation."

Parking Lot - An off-street ground level area, not on a public street or alley, paved in accordance with Village parking lot standards, for the short- or long-term storage of motor vehicles.

Parking Lot or Structure, Commercial (Auto) - An area or structure devoted to the parking or storage of automobiles for a fee which may include, in the case of a parking structure only, a facility for servicing automobiles provided that such facility is an internal function for use only by automobiles occupying the structure and that such facility creates no special problems of ingress or egress.

Parking Space - An off-street area, not on a public street or alley, paved in accordance with Village parking lot standards, that is used for parking a vehicle, and that is accessed from a paved driveway which connects the parking space with a public street.

Patio Home (Zero-Lot-Line Dwelling) - A single-family dwelling on a separately platted lot which is designed such that one side yard is reduced to zero feet in order to maximize the width and usability of the other side yard, and which permits the construction of a detached single-family dwelling with one side of such dwelling placed on the side property line.

Pawn Shop - An establishment where money is loaned on the security of personal property pledged in the keeping of the owners. Retail sales of primarily used items is also allowed, provided that the sale of such items complies with local, State and Federal regulations.

Personal Service Shop or Custom Personal Services - Establishments less than two thousand (2,000) square feet in gross floor area, primarily engaged in providing services generally involving the care of the person or his apparel and including, but not limited to, barber and beauty shops, dressmaking, shoe shining and repair, dry-cleaning and laundry pick-up stations, tailor or seamstress services, and other similar types of uses, with no outside storage.

Pet and Animal Grooming Shop - A retail establishment offering small animals, fish or birds for sale as pets, where such creatures are housed within the building, and which may include the grooming of dogs, cats and similar animals.

Petroleum Distribution/Storage/Wholesale Facility - A facility for the long-term storage and distribution of petroleum that may also involve wholesale sales, but not retail sales, of petroleum and petroleum-based products. No manufacturing or refining of petroleum or petroleum-based products occurs on the premises, only storage and/or distribution functions.

Planned Development District - Planned associations of uses developed as integral land use units, such as industrial parks or industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing, including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or by a combination of owners.

Planning and Zoning Commission - A board which is appointed by the Governing Body as an advisory body, and which is authorized to recommend changes in the zoning of property and other planning functions as delegated by the Governing Body. Also referred to as the "Commission."

Plat - A plan showing the subdivision of land, creating building lots or tracts, showing all essential dimensions and other information in compliance with the subdivision standards of the Village, and which is approved by the Village and recorded in the plat records of Travis County.

Platted Lot - See "Lot" and "Lot of Record."

Playfield or Stadium (Public) - An athletic field or stadium owned and operated by a political subdivision for the general public including a baseball field, soccer field, golf course, football field or stadium which may be lighted for nighttime play.

Playfield or Stadium (Private) - An athletic field or stadium owned and operated by an agency other than a political subdivision.

Portable Building Sales (Outdoor Display) - An establishment which displays and sells structures capable of being carried and transported to another location, but not including mobile homes.

Premises - Land together with any buildings or structures situated thereon.

Primary Use - The principal or predominant use of any lot or building.

Principal Building - See "Main Building."

Private Club - An establishment providing social or dining facilities which may provide alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of, that portion of Title 3, Chapter 32, Vernon's Texas Codes Annotated, Alcoholic Beverage Code, as the same may be hereafter amended, and as it pertains to the operation of private clubs.

Private Recreation Facility or Private Park - A recreation facility, park or playground which is not owned by a political subdivision, and which is operated for the exclusive use of private residents or neighborhood groups and their guests and not for use by the general public.

Produce Stand - A seasonal use for which the primary purpose and design is to sell fruit, nuts, vegetables and similar foods. No cooking or on-premises consumption of produce occurs on the site.

Professional Service - Work performed which is commonly identified as a profession, and which may be licensed by the State of Texas.

Propane Sales - Retail sales of gaseous substances commonly used for household purposes such as propane or butane; does not include the storage, sale or distribution of other types of combustible substances or alternative fuels such as containerized natural gas, liquid propane, etc.

Public Agency Building, Shop, Yard or Facility - Any building, land, area or facility, including maintenance and storage yards and shops, which is owned, leased, primarily used and occupied by any subdivision or agency of the following: the State of Texas, the United States, or other political subdivision. Any facility which is owned, leased, used or occupied by the Village of Bee Cave is defined as "Municipal Facility or Use."

Public Recreation - Publicly owned and operated parks, recreation areas, playgrounds, swimming pools and open spaces that are available for use by the general public without membership or affiliation. This land use shall include special event type uses such as rodeos, concerts, festivals and other special events requiring special event permits, as set forth in the Village's Code of Ordinances.

Public View - Public view means areas that can be seen from any public street.

Rear Yard - See "Yard, Rear."

Recreation Center - A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

Recreational Vehicle (RV) - A self-propelled, mobile living unit which is typically used for temporary human occupancy away from the users' permanent place of residence. An RV may also be utilized as a permanent place of residence within districts that allow them to be used as such. (See also "Heavy Load Vehicle").

Recreational Vehicle/Camper Sales and Leasing - An establishment that sells, leases or rents new or used recreational vehicles, travel trailers, campers, boats and watercraft, and similar types of vehicles.

Recreational Vehicle (RV) Park - An area or commercial campground for users of recreational vehicles, travel trailers, and similar vehicles to reside, park, rent or lease on a temporary basis. (See also "Mobile Home Park").

Recycling Kiosk - A small uninhabited structure up to one hundred twenty (120) square feet maximum, or temporary container, such as an "igloo" or dumpster-type container, which provides a self-service location for the depositing of recyclable materials such as aluminum cans, glass bottles, magazines and newspapers and metal or plastic containers. Recyclables are picked up periodically from the site. This definition does not include large trailers or manned collection centers.

Rehabilitation Care Facility (Halfway House) - A dwelling unit which provides residence and care to not more than nine (9) persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two (2) supervisory personnel as a single housekeeping unit.

Rehabilitation Care Institution - A facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

Residence - Same as a dwelling; also, when used with district, an area of residential regulations.

Residence Hotels - A multi-unit, extended stay lodging facility consisting of efficiency units or suites with complete kitchen facilities and which is suitable for long-term occupancy. Customary hotel services such as linens and housekeeping, telephones, and upkeep of furniture shall be provided. Meeting rooms, club house, and recreational facilities intended for the use of residents and their guests are permitted. This definition shall not include other dwelling units as defined by this article.

Residential District - District where the primary purpose is residential use.

Restaurant or Cafeteria (With Drive-Through Service) - An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which may include a drive-through window(s).

Restaurant or Cafeteria (With No Drive-Through Service) - An eating establishment where customers are primarily served at tables or are self-served, where food is consumed on the premises, and which do not have a drive-through window.

Restaurant or Eating Place (Drive-In Service) - An eating establishment where food or drinks are primarily served to customers in motor vehicles, or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant premises.

Retail or Service, Incidental - The rendering of incidental retailing or services incidental to the primary use. In the Office district, for example, such uses may include a barber or beauty shop, smoke shop, news stand, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy. Incidental uses shall mean uses which occupy less than fifteen percent (15%) of the main use.

Retail Shop (For Apparel, Gifts, Accessories and Similar Items) - An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. (Also see "General Retail Stores").

Retirement Housing for the Elderly (also Independent Living Center or Congregate Housing) - A development providing self-contained dwelling units specifically designed for the needs of the elderly. Units may be rented or owner-occupied. To qualify as retirement housing, a minimum of eighty percent (80%) of the total units shall have a household head fifty-five (55) years of age or greater. No long-term or permanent skilled nursing care or related services are provided.

Room - A building or portion of a building which is arranged, occupied or intended to be occupied as living or sleeping quarters but not including toilet or cooking facilities.

Rooming House - See "Boarding House."

Salvage or Reclamation of Products (Also See Wrecking Yard) - The reclamation and storage of used products or materials.

Sand, Gravel or Stone Extraction or Storage - The process of extracting and/or storing sand, gravel, stone, topsoil, compost or other products from the earth.

School, Business - A for-profit business that offers instruction and training in a profession, service or art such as a secretarial or court reporting school, barber or beauty college or commercial art school, but not including commercial trade schools.

School, Commercial Trade - A for-profit business that offers vocational instruction and training in trades such as welding, brick laying, machinery operation/repair, and similar trades.

School, Private (Primary or Secondary) - A school under the sponsorship of a private agency or corporation, other than a religious agency, which offers a curriculum that is generally equivalent to public elementary and/or secondary schools.

School, Public or Parochial - A school under the sponsorship of a public or religious agency which provides elementary or secondary curricula, but not including private business or commercial trade schools.

Scientific and Industrial Research Laboratories - Facilities for research including laboratories, experimental equipment, and operations involving compounding or testing of materials or equipment.

Screened - Shielded, concealed, and effectively hidden from the view of a person standing at ground level on an abutting site, or outside the area or feature so screened, by a fence, wall, hedge, berm or similar architectural or landscape feature.

Seasonal Uses - Seasonal uses include the sales of items such as Christmas trees, pumpkins, snow cones, fresh produce, and other items which are typically only available at certain times of the year.

Servant's Quarters or Guest House - An accessory dwelling in a residential district for the sole use and occupancy of a member of the immediate family or of a person or persons employed on the premises by the occupant on a full-time basis as domestic help such as a maid, nanny/governess, groundskeeper, chauffeur, cook or gardener, but not involving the rental of such facilities or the use of separate utility connections for such facilities.

Sexually Oriented Business - See Sec. 12.130(d).

Shopping Center - A group of primarily retail and service commercial establishments that is planned, constructed and managed as a total entity, and which provides customer and employee parking on-site, unloading or delivery areas which are separated from customer access, and aesthetically appropriate design and protection from the elements.

Side Yard - See "Yard, Side."

Single-Family Dwelling, Attached (Townhouse) - A dwelling which is joined to another dwelling at one or more sides by a party wall, which is designed for occupancy by one family, and which is located on a separate lot delineated by front, side and rear lot lines.

Single-Family Dwelling, Detached - A dwelling designed and constructed as a free-standing structure for occupancy by one family, and located on a lot or separate building tract having no physical connection to a building located on any other lot or tract.

Skilled Nursing Facility (also termed Nursing Home, Convalescent Home or Long-Term Care Facility) - A residence providing primarily in-patient health care, personal care, or rehabilitative services over a long period of time to persons who

are chronically ill, aged or disabled and who need ongoing health supervision but not hospitalization.

Small Engine Repair Shop - Shop for the repair of lawn mowers, chain saws, lawn equipment, and other machines with one-cylinder engines.

Stable, Commercial - A stable used for the rental of stall space or for the sale or rental of horses or mules; such a stable shall meet all provision and requirements of the zoning district in which it is constructed.

Stable, Private - An area used solely for the owner's private purposes for the keeping of horses, mules or ponies which are not kept for remuneration, hire or sale.

Storage or Wholesale Warehouse - A building used primarily for the storage of goods and materials.

Story - That portion of a building above grade, other than a basement, that is included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, then the space between the floor and the ceiling above it. The average height for a story shall be defined as twelve feet (12'). The definition of a story does not include parapets, gables and other normal roof structures. In cases where the site has a significant slope, the number of stories of a building shall be measured from point representing the average slope from front to back, or side to side, of the building.

Story, Half - A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet (3') above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half-story containing an independent apartment or self-contained living quarters shall be counted as a full story.

Street - Any dedicated public thoroughfare which affords the principal means of access to abutting property. A street is termed a major thoroughfare or arterial when the right-of-way is greater than sixty feet (60').

Street Intersection - Any street which joins another street at an angle, whether or not it crosses the other.

Street Yard - The area between the building front line and the front property line.

Structure - Anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground (also see definition of "Building").

Structural Alterations - Any change in the supporting members of a building, such as load-bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Studio, Health, Reducing or Fitness - Includes, but is not limited to, an establishment which provides facilities and equipment, such as gymnasiums, weight rooms, swimming pools or spas, exercise apparatus and instruction classes, which are intended to promote health, fitness, weight reduction and/or similar health-related activities. Such facilities may include such accessory uses as food service, sales of sundries and apparel, and child care services, provided that such accessory uses are clearly incidental to the primary use and are for the use of studio patrons only. No outside signage may be used to advertise accessory uses.

Studio, Tattoo or Body Piercing - A building or portion of a building used for selling or applying tattoos, by injecting dyes/inks into the skin, and/or for piercing the skin with needles, jewelry or other paraphernalia, primarily for the purpose of ornamentation of the human body.

Studio for Radio and Television - A building or portion of a building used as a place for radio or television broadcasting.

Subdivision Ordinance - Article 9.400 of the Code of Ordinances of the Village of Bee Cave, Texas, as amended from time to time.

Swimming Instruction as a Home Occupation - The teaching of swimming in a private swimming pool. Within a residential district, this use is subject to the approval and issuance of a conditional use permit which may specify operating conditions and standards and which may limit the number of students and operating times.

Swimming Pool, Commercial - A swimming pool with accessory facilities which is not part of the municipal or public recreational system and which is not a private swim club, but where the facilities are available for use by the general public for a fee.

Swimming Pool, Private - A swimming pool constructed for the exclusive use of the residents of a one-family, two-family or multiple-family dwelling and located, fenced and built in accordance with the Village Building Code. A private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners, and shall be constructed below the average natural grade level.

Telemarketing Center - An establishment which solicits business or the purchase of goods and/or services by telephone only. No sales of goods or services to the public occurs at or on the premises. No products are stored at or on the premises.

Telephone and Exchange, Switching/Relay or Transmitting Station - A line for the transmission of telephone signals and a central office in which telephone lines are connected to permit communication but not including a business office, storage, whether inside or outside, or repair yards.

Temporary - Used or lasting for only a limited period of time; not permanent.

Temporary Building - Any nonresidential prefabricated structure which is not originally manufactured or constructed at its use site, required on-site installation of utilities and/or foundation.

Temporary Field Office or Construction Yard or Office - A structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment. Temporary permits for one (1) year for a specific time and location as determined may be issued by the Building Official and shall be subject to review and renewal for reasonable cause.

Tennis Court, Private - A surface designed and constructed for playing the game of tennis along with all fencing, nets and related appurtenances but excluding lighting for nighttime play in residential areas except as may be otherwise provided or restricted by the conditional use permit.

Theater, Drive-In (Outdoor) - An open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

Theater or Playhouse (Indoor) - A building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performances.

Tire Dealer, No Open Storage - A retail establishment engaged in the sale or installation of tires for vehicles, but without open storage.

Tire Dealer, With Open Storage - A retail establishment engaged in the sale or installation of tires for vehicles, with open storage.

Tool and Machinery Rental Shop - A building or a portion of a building used for the display and rental of tools, machinery and instruments.

Tract - A single individual parcel or lot.

Tractor Sales - See "Heavy Machinery Sales and Storage."

Trade and Commercial Schools - See "School, Commercial Trade."

Trailer Park or Court - See "Mobile Home Park."

Trailer, Hauling - A vehicle or device which is pulled behind an automobile or truck and which is designed for hauling animals, produce, goods or commodities, including boats.

Trailer Home - See "Manufactured Housing, Mobile Home."

Trailer or Mobile Home Space - See "Mobile Home Space."

Trailer Rental - The display and offering for rent of trailers designed to be towed by automobiles and light load vehicles.

Trailer, Travel or Camping - A portable or mobile living unit which is used for temporary human occupancy away from the users' permanent place of residence, which does not constitute the users' principal place of residence, and which is designed to be towed behind another vehicle.

Transportation and Utility Structures and Facilities - Permanent facilities and structures operated by companies engaged in providing transportation and utility services including but not limited to railroad track rights-of-way, sewage pumping stations, telephone exchanges, transit station turnarounds, water reservoirs and water pumping stations.

Truck - A light or heavy load vehicle (see definitions for "Light Load Vehicle" and "Heavy Load Vehicle").

Truck and Bus Repair - An establishment providing major and minor automotive repair services to heavy load vehicles.

Truck and Bus Leasing - The rental of new or used panel trucks, vans, trailers, recreational vehicles or motor-driven buses in operable condition and where no repair work or intensive cleaning operations are performed.

Truck Stop - A facility for the parking, refueling or minor repair of heavy load tractor-trailer trucks. These facilities may also include retail sales of food or other items, restaurant(s), restroom/showers facilities, and/or temporary sleeping quarters.

Truck Terminal - An area and building where cargo is stored and where trucks, including tractor and trailer units, load and unload cargo on a regular basis. May include facilities for the temporary storage of loads prior to shipment.

Truck Sales (Heavy Trucks) - The display, sale or rental of new or used heavy load vehicles in operable condition.

Two-Family Dwelling (Duplex) - Two attached dwellings in one structure, each designed to be occupied by one family.

Usable Open Space - An open area or recreational facility which is designed and intended to be used for outdoor living or recreation purposes. An area of usable open space shall have a slope not exceeding ten percent (10%), shall have no dimension of less than ten feet (10'), and may include landscaping, walks, recreational facilities, water features and decorative objects such as art work or fountains.

Use - The purpose for which land or buildings are or may be occupied in a zoning district.

Utility Distribution/Transmission Lines - Facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to electrical transmission lines, gas transmission lines, telephone lines and metering stations, whether operated by the Village or private utility company.

Variance - An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the Zoning Board of Adjustments of the Village can grant a variance.

Veterinarian Clinic - An establishment where animals and pets are admitted for examination and medical treatment (also see "Kennels").

Village Administrator - The person holding the position of Village Administrator, as appointed by the Governing Body. For the purposes of this article the Village Administrator may appoint, in writing, a designee to act on his or her behalf.

Village Attorney - The term "Village Attorney" shall apply only to such attorney, or firm of attorneys, that has been specifically employed by the Village to assist in legal matters.

Village Engineer - The term "Village Engineer" shall apply only to such licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the Village to assist in engineering-related matters.

Village - The Village of Bee Cave, Texas.

Wrecking Yard (Junkyard or Auto Salvage) - Any lot upon which two or more motor vehicles of any kind, which are incapable of being operated due to condition or lack of license, have been placed for the purpose of obtaining parts for recycling or resale.

Yard - An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this article that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used. (See Illustration 6).

Yard, Front - A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building. (See Illustration 6).

Yard, Rear - The area extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard. (See Illustration 8).

Yard, Side - The area between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building. (See Illustration 8).

Zero-Lot-Line Dwelling - See "Patio Home."

Zoning Board of Adjustments - A board which is appointed by the Governing Body, and which is authorized to make special exceptions and variances to this article, and to hear and decide any appeals that allege error in an order, requirement, decision or determination made by an administrative official in the enforcement of this article. Also referred to as the "ZBA."

Zoning District - A classification applied to any certain land area within the Village stipulating the limitations and requirements of land usage and development.

Zoning District Map - The official map upon which the boundaries of the various zoning districts are drawn and which is an integral part of this article. (See Sec. 12.102, "Zoning District Map" and Sec. 12.103, "Zoning District Boundaries").

Division 5 - Penalties and Enforcement

Sec. 12.140 Effect of Interpretation

In interpreting and applying the provisions of this article, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this article to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this article imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by agreements, the provisions of this article shall govern.

Sec. 12.141 Preserving Rights in Pending Litigation and Violations Under Existing Ordinances

By the passage of this article, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this article that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time the exiting Zoning Ordinance was repealed and this article adopted, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed.

Sec. 12.142 Stop Orders

Whenever any work is being done contrary to the provisions of this article, the Building Official may order the work stopped by notice in writing (referred to as a "Stop Work Order") served on any persons engaged in the doing or causing such work to be done. The Stop Work Order shall be posted on the property adjacent to the activity in question, and any such person shall forthwith stop work until authorized by the Building Official to proceed with the work.

Sec. 12.143 Permit Revocation

A violation of this article shall authorize the Village Administrator to cancel any permit depending in whole or in part on any approval under this article. If a permit is canceled, no further work shall be done on the project made the subject of the permit until the violation has been cured and new submittals under this article, as required by the Village Administrator, have been made and approved in accordance with the provisions of this article and a new permit has been issued.

Sec. 12.144 Denial of Approvals and Permits

A violation of this article shall authorize the Village Administrator to deny any approvals or permits sought by the person violating this article under Articles 9.400 and 11.100 of the Code of Ordinances of the Village.

Sec. 12.145 Penalties and Injunctive Relief

Any person violating this article, upon conviction, is punishable by a fine in accordance with the general penalty provision found in Section 1.106 of this Code.

Any person violating this article is subject to suit for injunction as well as prosecution for criminal violations.

Sec. 12.146 Severability

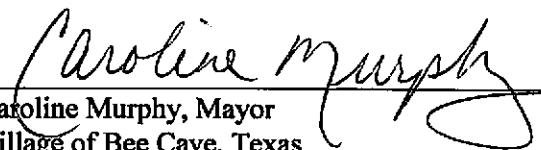
If any term or provision of this article is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this article shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Sec. 12.147 Effective Date

This article shall be effective as of the date of its adoption.


PASSED AND ADOPTED by the Governing Body of the Village of Bee Cave, Texas on the 29th day of August, 2000.

(City's Seal)



Caroline Murphy, Mayor
Village of Bee Cave, Texas

ATTEST:



Sherry Mashburn, Village Secretary
Village of Bee Cave, Texas